

Cabinet

**Date & time**

Tuesday, 26
November 2013 at
2.00 pm

Place

Ashcombe Suite,
County Hall, Kingston
upon Thames, Surrey
KT1 2DN

Contact

Anne Gowing or James
Stanton
Room 122, County Hall
Tel 020 8541 9938

Chief Executive

David McNulty

anne.gowing@surreycc.gov.uk

Cabinet Members: Mr David Hodge (Chairman), Mr Peter Martin (Vice-Chairman), Mrs Mary Angell, Mrs Helyn Clack, Mr Mel Few, Mr John Furey, Mr Michael Gosling, Mrs Linda Kemeny, Ms Denise Le Gal and Mr Tony Samuels

Cabinet Associates: Mr Steve Cosser, Mrs Clare Curran, Mr Mike Goodman and Mrs Kay Hammond

If you would like a copy of this agenda or the attached papers in another format, eg large print or braille, or another language please either call 020 8541 9122, write to Democratic Services, Room 122, County Hall, Penrhyn Road, Kingston upon Thames, Surrey KT1 2DN, Minicom 020 8541 9698, fax 020 8541 9009, or email anne.gowing@surreycc.gov.uk.

This meeting will be held in public. If you would like to attend and you have any special requirements, please contact Anne Gowing or James Stanton on 020 8541 9938.

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If you have any queries regarding this, please contact the representative of Legal and Democratic Services at the meeting

1 APOLOGIES FOR ABSENCE

2 MINUTES OF PREVIOUS MEETING: 22 AND 30 OCTOBER 2013

The minutes will be available in the meeting room half an hour before the start of the meeting.

3 DECLARATIONS OF INTEREST

To receive any declarations of disclosable pecuniary interests from Members in respect of any item to be considered at the meeting.

Notes:

- In line with the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, declarations may relate to the interest of the member, or the member's spouse or civil partner, or a person with whom the member is living as husband or wife, or a person with whom the member is living as if they were civil partners and the member is aware they have the interest.
- Members need only disclose interests not currently listed on the Register of Disclosable Pecuniary Interests.
- Members must notify the Monitoring Officer of any interests disclosed at the meeting so they may be added to the Register.
- Members are reminded that they must not participate in any item where they have a disclosable pecuniary interest.

4 PROCEDURAL MATTERS

4a Members' Questions

The deadline for Member's questions is 12pm four working days before the meeting (*20 November 2013*).

A copy of any questions received will be circulated following the deadline and published on the Council's website
www.surreycc.gov.uk/committeepapers

4b Public Questions

The deadline for public questions is seven days before the meeting (*19 November 2013*).

A copy of any questions received will be circulated following the deadline and published on the Council's website
www.surreycc.gov.uk/committeepapers

4c Petitions

The deadline for petitions was 14 days before the meeting, and no petitions have been received.

4d Representations received on reports to be considered in private

To consider any representations received in relation why part of the meeting relating to a report circulated in Part 2 of the agenda should be open to the public.

5 REPORTS FROM SELECT COMMITTEES, TASK GROUPS, LOCAL COMMITTEES AND OTHER COMMITTEES OF THE COUNCIL

None.

6 YOUTH JUSTICE STRATEGIC PLAN

(Pages 1
- 24)

The Youth Justice Strategic Plan is produced annually to meet the Council's obligations under the Crime & Disorder Act 1998 and is submitted to Cabinet for recommending to Council.

Youth Justice relates to that area of the Council's responsibilities for the management of young people who have committed criminal offences. These responsibilities are discharged in partnership with the Surrey Police, Surrey & Sussex Probation and NHS Surrey.

The council has a duty under the Crime & Disorder Act 1998 to formulate a Youth Justice Plan setting out:

- how youth justice services in their area are to be provided and funded; and
- how the youth offending team or teams established are to be composed and funded, how they are to operate and what functions they are to carry out.

In Surrey, the delivery of youth justice services is now embedded within the integrated Youth Support Service, following the transformation of Services for Young People that commenced 1 January 2012.

7 SURREY FIRE AND RESCUE SERVICE (SFRS) PUBLIC SAFETY PLAN UPDATE

(Pages
25 - 28)

Fire and Rescue Services are facing a changing demand. Sir Ken Knight's national review of efficiencies and operations in fire and rescue authorities in England ('Facing the Future', May 2013) set out that Fire and Rescue Services must adapt to provide more effective and efficient services. In particular it identified that the biggest opportunities lie in wider transformative structural and collaborative approaches, requiring ambition and leadership to achieve this. The review advocated that authorities should not wait for national action before fully exploiting the large number of opportunities already within their grasp.

SFRS has established a long term plan, the Public Safety Plan 2011-2020. The service proposes to update and develop the Public Safety Plan to ensure it takes account of new information including the census data and intelligence regarding the changing environment, national and local demands.

Reviewing the plan at this point enables the Service to ensure the plan

reflects the impacts of the revised Medium Term Financial Plan can be taken into account. The increasing financial pressures faced by public services emphasise the need to consider alternative models of delivery and operation to support the broadening range of activities delivered by fire and rescue services. This is in keeping with the emphasis on partnership and public service transformation.

[The decisions on this item can be called in by the Communities Select Committee]

8 SPECIALIST RESCUE AND CONTINGENCY CREWING EXTENSION (Pages 29 - 38)

This report provides a summary of activity and effectiveness of the private sector professional specialist rescue and contingency crewing (SRCC) pilot contract. The report highlights the positive impact of the contract through the current period of on-going industrial action by the Fire Brigades Union.

Further opportunities for improving operational impact and value for money are currently being explored. This report seeks permission to extend the contract pilot period to March 2015 in order to undertake a full evaluation of the pilot and ensure that new opportunities can be fully assessed.

N.B. Please also refer to item 15 for the confidential annex to this report.

[The decisions on this item can be called in by the Communities Select Committee]

9 REGULATION OF INVESTIGATORY POWERS ACT 2000 - UPDATED CORPORATE POLICY AND PROTOCOL (Pages 39 - 80)

1. The Cabinet is asked to endorse an updated Corporate Policy and Protocol on the use of the Regulation of Investigatory Powers Act 2000 (RIPA) by council services.
2. The proposed policy provides an updated framework to ensure that the Authority continues to comply fully with the requirements of RIPA following the coming into force of the Protection of Freedoms Act 2012 and to take account of the changes in the structure of the Trading Standards Service.

[The decisions on this item can be called in the Communities Select Committee]

10 BUDGET MONITORING REPORT FOR OCTOBER 2013 (Pages 81 - 84)

This report presents the council's financial position at the end of period 7 – October of the 2013/14 financial year, with particular focus on the year end revenue and capital budgets forecasts and the achievement of efficiency targets.

Please note that the annexes to this report will be circulated separately prior to the Cabinet meeting.

[The decisions on this item can be called in by the Council Overview and Scrutiny Committee]

11 SURREY INTEGRATED COMMUNITY EQUIPMENT SERVICES (ICES) (Pages 85 - 88)

Surrey County Council with Surrey NHS Clinical Commissioning Groups (CCGs) provided approximately 28,000 people in Surrey last year with items of equipment to assist them to live as independently as they would wish, either because they are living with a long term condition or are recovering from illness or accident. The provision of equipment is a statutory service. The service is called ICES (Integrated Community Equipment Service). It is joint funded with the Surrey CCGs. Strategically critical, it is a key element in enabling people to live in their own homes, and in assisting people in the transition from hospital to home following treatment.

Following a robust tender process, the current contract for ICES was awarded to Millbrook Healthcare to begin 1 April 2009 on the basis of a five year term until 31 March 2014, with options for two additional years.

The service provided by Millbrook Healthcare for the initial five years has been to a very high standard: the number of people receiving a service annually has increased by 12% from 25,000 in 2009/10 to 28,000 in 2012/13; the proportion of equipment deliveries completed to timescale is 99%; the number of complaints is low, 0.3-0.4% of 2,800 activities each month.

The service is joint funded with the Surrey CCGs who have agreed to an initial one year extension.

Cabinet are asked to agree to the optional extension period of up to 2 years: one year until 31 March 2015 with joint funding confirmed by the Surrey CCGs; with the option to extend for a final year until 31 March 2016 subject to continued best value, acceptable performance by the contractor, and confirmed funding from the Surrey CCGs.

N.B. Please also refer to item 14 for the confidential annex to this report.

[The decisions on this item can be called in by the Adult Social Care Select Committee]

12 LEADER / DEPUTY LEADER / CABINET MEMBER DECISIONS TAKEN SINCE THE LAST CABINET MEETING (Pages 89 - 94)

To note any delegated decisions taken by the Leader, Deputy Leader and Cabinet Members since the last meeting of the Cabinet.

13 EXCLUSION OF THE PUBLIC

That under Section 100(A) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information under the relevant paragraphs of Part 1 of Schedule 12A of the Act.

PART TWO - IN PRIVATE

- 14 SURREY INTEGRATED COMMUNITY EQUIPMENT SERVICES (ICES)** (Pages 95 - 96)
Confidential annex for item 11.
- 15 SPECIALIST RESCUE AND CONTINGENCY CREWING EXTENSION** (Pages 97 - 98)
Confidential Annex for item 8.
- 16 FUTURE GOV INVESTMENT PROPOSAL- REPORT TO FOLLOW**
Future Gov Ltd a provider to the Council is a small company specialising in developing innovative technology based products and providing consultancy services to public sector organisations to improve service efficiencies and outcomes for residents. Future Gov are seeking to secure funding partners to enable the company to deliver ambitious growth plans over the next five years. Future Gov have approached the County Council to participate in this fundraising.
- Exempt: Not for publication under paragraph 3**
Information relating to the financial or business affairs of any particular person (including the authority holding that information)
[The decisions on this item can be called in by the Council Overview and Scrutiny Committee]
- 17 PROPERTY TRANSACTIONS** (Pages 99 - 146)
A: Acquisition of an Office Property in Ashtead
Exempt: Not for publication under paragraph 3
Information relating to the financial or business affairs of any particular person (including the authority holding that information)
[The decisions on this item can be called in by the Council Overview and Scrutiny Committee]
- 18 PUBLICITY FOR PART 2 ITEMS**
To consider whether the item considered under Part 2 of the agenda should be made available to the Press and public.

David McNulty
Chief Executive
Monday, 18 November 2013

QUESTIONS, PETITIONS AND PROCEDURAL MATTERS

The Cabinet will consider questions submitted by Members of the Council, members of the public who are electors of the Surrey County Council area and petitions containing 100 or more signatures relating to a matter within its terms of reference, in line with the procedures set out in Surrey County Council's Constitution.

Please note:

1. Members of the public can submit one written question to the meeting. Questions should relate to general policy and not to detail. Questions are asked and answered in public and so cannot relate to "confidential" or "exempt" matters (for example, personal or financial details of an individual – for further advice please contact the committee manager listed on the front page of this agenda).
2. The number of public questions which can be asked at a meeting may not exceed six. Questions which are received after the first six will be held over to the following meeting or dealt with in writing at the Chairman's discretion.
3. Questions will be taken in the order in which they are received.
4. Questions will be asked and answered without discussion. The Chairman or Cabinet Members may decline to answer a question, provide a written reply or nominate another Member to answer the question.
5. Following the initial reply, one supplementary question may be asked by the questioner. The Chairman or Cabinet Members may decline to answer a supplementary question.

MOBILE TECHNOLOGY – ACCEPTABLE USE

Those attending for the purpose of reporting on the meeting may use mobile devices in silent mode to send electronic messages about the progress of the public parts of the meeting. This is subject to no interruptions, distractions or interference being caused to any PA or Induction Loop systems. The Chairman may ask for mobile devices to be switched off in these circumstances.

It is requested that all other mobile devices (mobile phones, BlackBerries, etc) be switched off or placed in silent mode during the meeting to prevent interruptions and interference with PA and Induction Loop systems.

Thank you for your co-operation

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| Section 151 Finance cleared on: | 06/11/13 |
| Strategic Director cleared on: | 05/10/13 |
| Cabinet Member cleared on: | 06/11/13 |

SURREY COUNTY COUNCIL**CABINET****DATE: 26 NOVEMBER 2013****REPORT OF: MRS MARY ANGELL, CABINET MEMBER FOR CHILDREN AND FAMILIES****LEAD OFFICER: NICK WILSON, STRATEGIC DIRECTOR FOR CHILDREN, SCHOOLS & FAMILIES****SUBJECT: YOUTH JUSTICE STRATEGIC PLAN****SUMMARY OF ISSUE:**

The Youth Justice Strategic Plan is produced annually to meet the Council's obligations under the Crime & Disorder Act 1998 and is submitted to Cabinet for recommending to Council.

Youth Justice relates to that area of the Council's responsibilities for the management of young people who have committed criminal offences. These responsibilities are discharged in partnership with the Surrey Police, Surrey & Sussex Probation and NHS Surrey.

The Council has a duty under the Crime & Disorder Act 1998 to formulate a Youth Justice Plan setting out:

- how youth justice services in their area are to be provided and funded; and
- how the youth offending team or teams established are to be composed and funded, how they are to operate and what functions they are to carry out.

In Surrey, the delivery of youth justice services is now embedded within the integrated Youth Support Service, following the transformation of Services for Young People that commenced 1 January 2012.

RECOMMENDATIONS:

Following finalisation of the Plan by all our partners, Cabinet is pleased to recommend to Council the approval of the Youth Justice Strategic Plan.

REASON FOR RECOMMENDATIONS:

The council has a duty under the Crime & Disorder Act 1998 to formulate a Youth Justice Plan setting out:

- how youth justice services in their area are to be provided and funded; and
- how the youth offending team or teams established are to be composed and funded,
- how they are to operate and what functions they are to carry out.

| |
|------------------------|
| <u>DETAILS:</u> |
|------------------------|

The Youth Justice Strategic Plan

1. The Youth Justice Strategic Plan (attached at Annex 1) for 2013-14 follows a structure recommended by the Youth Justice Board for England & Wales and includes the following sections:
 - a. Introduction - sets out the context in which youth justice services are provided (page 4)
 - b. Strategy – outlines the service’s high level strategy for the three years ahead (page 5)
 - c. Outcomes from 2012/13 – a review of service performance over previous 12 months (page 6)
 - d. Resourcing & value for money – details how resources are deployed to deliver effective youth justice services to prevent offending and re-offending (pages 8 to 12)
 - e. Structure & Governance – defines the governance arrangements which support integrated strategic planning and performance oversight (page 13)
 - f. Partnership Arrangements – sets out the wider partnership arrangements showing the connectivity of youth justice services with the childcare and criminal justice system in the county (page 15)
 - g. Risks to Future Delivery - this section considers the risks that may undermine capacity to deliver effective youth justice services for the year ahead. (page 17)

2. The review of service performance detailed in the Youth Justice Strategic Plan demonstrates why Surrey is considered to have one of England and Wales’ foremost youth justice partnerships. Notable achievements include:
 - Young people in Surrey are significantly less likely to enter the criminal justice system than in any other authority in the country.
 - Surrey is leading a regional programme to reform responses to looked after children’s offending, building on our success in keeping looked after children out of the criminal justice system in Surrey.
 - Surrey’s restorative justice programme is nationally recognised as at the forefront of best practice putting victims at the heart of the justice process and records high levels of victim satisfaction.
 - Surrey incarcerates fewer of its children and young people than ever before and fewer than any comparable authority in the country.
 - Offending by young people in Surrey is reducing as is re-offending. Reductions in re-offending are most marked for those who have been subject to a youth restorative intervention.

3. Following the transformation of Services for Young People in January 2012, youth justice services are now delivered within the integrated Youth Support Service. Surrey’s strategy has been to embed restorative youth justice within an integrated approach to young people’s needs which ensures their successful transition to a productive, law-abiding adulthood. Surrey has

strategically sited its youth offending services within a youth support service which has the mission of full participation for all Surrey's young people.

4. We know that those at greatest risk of offending are the least likely to be positively participating in the life of their communities; they are more likely to be out of education or employment, they are often marginalised from services and opportunities. By placing our youth offending services at the heart of a holistic, integrated approach to meeting the needs of a range of vulnerable young people, we give ourselves the best opportunity of bringing them back into the heart of their communities and equipping them with the skills to become contributing adults.
5. The Youth Support Service provides a single source of support for vulnerable young people aged 13 – 18 years, offering a wrap around service to tackle a range of barriers to participation that also feature as risk factors linked to offending. This includes access to: support for reducing substance misuse; support for children in need aged 15+, improving mental health; and prevention of youth homelessness. By overcoming these barriers to participation and giving young people who are at risk of offending the skills and confidence to get work we providing a long-term benefit for them and to all Surrey residents.
6. Thus far Surrey's integrated and restorative approach to meeting young people's needs has delivered outstanding results in youth justice arena. The Strategic Plan outlines our strategy and supporting activity to ensure we continue to improve delivery of youth justice services in Surrey.

CONSULTATION:

7. The Youth Justice Strategic Plan was considered by the Communities Select Committee on 21 March 2013 and by the Youth Justice Partnership Board on 5 April 2013. It has subsequently been endorsed by all of the partners within the youth justice system including the Youth Justice Board for England and Wales.

RISK MANAGEMENT AND IMPLICATIONS:

8. The Youth Justice Strategic Plan identifies six areas of risk affecting the services capacity and capability to deliver effective youth justice services. These are detailed at page 17 of the plan together with corresponding mitigating action.

Financial and Value for Money Implications

9. The cost of delivering the Youth Justice Plan is set out at page 12 of Annex 1 in a table that lists the contributions from partner agencies. The £2.6m contribution from SCC is indicative, based on the proportion of the Youth Support Service budget attributable to this area of work.
10. Costs are funded by contributions from partner agencies, a grant from the Youth Justice Board and the agreed revenue budget for the Youth Support Service.

Section 151 Officer Commentary

11. The s151 Officer confirms that the financial implications of the youth justice plan have been considered in this report and funding to deliver is available.

Legal Implications – Monitoring Officer

12. The production of a Youth Justice Plan is a statutory requirement (Crime and Disorder Act 1998) and forms part of the County Council's policy framework. The plan outlines how duties in respect of the youth justice system will be discharged by the council and its partners. There are no new commitments within the plan which impact upon the council's legal responsibilities.

Equalities and Diversity

13. Youth Justice Services support vulnerable young people to prevent further offending and to enable young people to make a successful transition to adulthood.
14. The service is acutely aware of the over representation of some minority groups within the criminal justice system and works actively to mitigate the impact on young people.

Corporate Parenting/Looked After Children implications

15. The plan provides for a continuing focus on reducing the over-representation of looked after children in the youth justice system. This builds upon the significant success in recent years in reducing looked after children's involvement in the youth justice system.

Safeguarding responsibilities for vulnerable children and adults implications

16. The plan commits the partnership to delivering outstanding services to safeguard young people and ensure protection of the public.

Public Health implications

17. The plan's priorities include tackling risk factors associated with drugs and alcohol, and emotional and mental health problems.

WHAT HAPPENS NEXT:

18. This is a rolling three year strategic plan setting out the ambition of the Council and its partners, to prevent offending, address offending more effectively, improve victim satisfaction, raise public confidence and where appropriate to divert young people from the criminal justice system

Contact Officer:

Ben Byrne, Head of Youth Support Service, tel: 01483 517014

Consulted:

Communities Select Committee
Youth Justice Partnership Board
Surrey Youth Justice Advisory Committee
CSF Directorate Leadership Team

Annexes:

Annex 1: The Youth Justice Strategic Plan 2013/14

Sources/background papers: None

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Youth justice strategic plan

Surrey youth justice partnership

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Foreword

I am delighted to introduce the youth justice strategic plan for 2013/14. Youth justice is an area of public service which has been transformed in Surrey over the last five years and should be a source of pride for our residents and the professionals delivering these services. Surrey is at the forefront of best practice and achieving what the Youth Justice Board for England and Wales describe as 'exceptional performance'. 7,500 young people are entering adulthood in Surrey without a criminal record as a result of the changes delivered by the youth justice partnership, victims of crime are provided with better services which deliver a high level of satisfaction, and public money is being saved by successfully preventing youth crime.

A review of the partnership's performance for the past 12 months reveals impressive results. The county's courts continue to make exceptionally low use of custody making Surrey the fifth lowest user of this sentencing option in England, reflecting the continuing confidence that courts have in the partnership arrangements for managing young offenders in the community. At the same time we have seen exceptional reductions in the number of first time entrants to the formal youth justice system, making Surrey the authority in England and Wales which is least likely to see its young people receive a criminal record. This is the product of an innovative approach developed in collaboration with Surrey Police that introduces a restorative response to low level offending, and puts victims at the heart of a process that can see the harm caused by offending behaviour put right without recourse to the courts. The youth restorative intervention has contributed to a very significant reduction in first time entrants, retains the confidence of victims, saves tax payers' money and above all prevents young peoples' lives being unnecessarily blighted by the burden of a criminal record which may restrict opportunities throughout their adult lives.

During 2012 the Surrey youth justice arrangements were inspected by Her Majesty's Inspector of Probation using their 'short quality screening' format. This is a one week visit by a team of five inspectors that examined 34 cases across the full range of our work in courts, from entry level referral order sentences up to complex supervisory orders and a small number of young people sentenced to custody. Overall the results from this inspection were very pleasing with inspectors commenting positively on the improved scope that the new integrated service offers to improve the lives of vulnerable young people.

The year ahead will undoubtedly present further challenges. However I remain optimistic that with the support of our partners our youth justice partnership will continue to flourish within our newly configured Youth Support Service.

Nick Wilson

Chairman of Youth Justice Partnership Board and Director of Children's Services at Surrey County Council

Introduction

A comprehensive two year review of services for young people in Surrey was completed in January 2012. Existing services of Connexions, Youth Development Service and Youth Justice Service were integrated from 1 January 2012 within a new Youth Support Service (YSS) which was established to deliver improved outcomes for young people supporting two strategic aims – to increase participation in education, training and employment; and to reduce offending and re-offending. The new service offers an integrated case work approach to vulnerable young people who are not in education, employment or training (NEET) or who are at risk of being NEET and to those involved in the youth justice system or who are at risk of becoming involved. The service draws on the skills of youth justice practitioners, youth workers and Connexions personal advisers and delivers support to young people through 11 local borough or district based teams within Surrey. The functions of the youth offending team (formerly the Youth Justice Service) are undertaken by practitioners and managers within the YSS. The deputy Head of Service role is designated as Surrey’s youth offending team manager, carrying the service’s strategic responsibility for youth justice.

The service is now into its second year of operation. The first year being very much one of transition with staff and managers adapting to the new opportunities afforded by the new working arrangements. Despite major organisational upheaval, headline youth justice performance continues to be very strongly evidenced by exceptionally low numbers remanded and sentenced to custody, further reductions in first time entrants and a continuing downward trend in re-offending. A ‘short quality screening’ inspection carried out by HMIP in December of 2012 found overall that staff in the Surrey Youth Support Service were delivering work of high quality and evidence of good multi-agency liaison and shared working, particularly in undertaking offending behaviour and victim work. Safeguarding and public protection work was considered ‘good’ but attention to improvements in relation to these areas of practice is ongoing to ensure these services are excellent.

The new service also continues to develop the radical changes brought about by the 2011 introduction in partnership with Surrey Police of the youth restorative intervention (YRI). The YRI provides a further step between arrest and the courtroom door and offers offenders and victims opportunity for fast and informal resolution of the harm caused by offending. As a consequence, the number of first time entrants to the youth justice system has fallen by 80% in the last two years. For the first time we are able to shift resource from processing relatively large numbers of offenders through the court system to working with those at risk of offending – intervening earlier to prevent problems escalating.

Surrey continues to be a very low user of custody with just nine young people sentenced to custody in the last twelve months continuing a downward trend established over several years. Secure remands (to both secure units and prison custody) are also low with a total of 431 nights of such accommodation used last year. The Surrey system is therefore well positioned to take on the transfer of financial responsibility for young people remanded to youth detention accommodation following the implementation of the Legal Aid Sentencing and Punishment of Offenders Act from April 2013.

The challenge ahead is to balance the architecture of the new service – offering an integrated one stop service locally delivered in 11 borough hubs – while maintaining the skills of key practitioners in the context of reducing demand for youth justice services.

Strategy

Our youth justice strategy is to embed restorative youth justice within an integrated approach to young people's needs, which ensures their successful transition to a productive, law-abiding adulthood. Surrey has strategically sited its youth offending services within a Youth Support Service which has the mission of full participation for all Surrey's young people. We know that those at greatest risk of offending are the least likely to be positively participating in the life of their communities; they are more likely to be out of education or employment, they are often marginalised from services and opportunities. By placing our youth offending services at the heart of an integrated approach to meeting the needs of a range of vulnerable young people we give ourselves the best opportunity of bringing them back into the heart of their communities and equipping them with the skills to become contributing adults. So far this integrated and restorative approach to meeting young people's needs has delivered outstanding results in youth justice arena.

To deliver the strategy we will:

- use restorative approaches to prevent offending, address offending effectively, improve victim satisfaction, raise public confidence and where appropriate to divert young people from the criminal justice system
- concentrate proportionately more resource on the smaller number of young people with more complex and higher risk issues where intensive support will reduce the risk of further offending and protect the public with particular attention to transitions to adult services for those with enduring needs
- maintain low use of sentence and remand custody by providing credible bail support and community sentence options
- deliver outstanding services to safeguard children and young people and ensure the protection of the public
- continue to focus on reducing the over-representation of looked after children in the youth justice system
- tackle four major risk factors in offending behaviour by supporting and enabling young people at risk of offending or re-offending to:
 - participate in purposeful activity including education, training and employment
 - live at home or find appropriate supportive alternative housing
 - lead lives free of dependency on drugs or alcohol
 - overcome the difficulties of emotional and mental health problems.

Outcomes for 2012/13

Youth justice is now part of the integrated Youth Support Service. Surrey's youth justice outcomes continue to be some of the best in the country as reflected by the three Youth Justice Board national performance indicators:

1. Use of custody rate per 1,000 of 10-17 population

| | Custody rate | | | Surrey's ranking | |
|---|--------------|------------|---------|--------------------|-----------------|
| | Surrey | South East | England | against South East | against England |
| April 2012 to March 2013 | 0.08 | 0.28 | 0.55 | 3 of 19 | 5 of 142 |
| Change from April 2010 to March 2011 baseline | -0.13 | -0.16 | -0.35 | | |

Nine young people received a custodial sentence in 2012/13. This is the lowest per capita use of custody in England for any sizeable authority and represents a 73% reduction in the use of custody for children and young people in Surrey over the last five years.

2. First time entrants rate per 100,000 of 10-17 population

| | First time entrant rate | | | Surrey's ranking | |
|--|-------------------------|------------|---------|--------------------|-----------------|
| | Surrey | South East | England | against South East | against England |
| January 2012 to December 2012 | 151 | 459 | 537 | 1 of 19 | 1 of 142 |
| Percentage change compared to 2007/08 baseline | -90% | -74% | -71% | | |

Surrey has achieved a 90% reduction in first time entrants (FTE) to the youth justice system in the year 2012/13 compared to the 2007/08 baseline. Surrey has the lowest FTE per capita in England.

3. Re-offending of 10-17 population

| | Re-offenders | | | Surrey's ranking | |
|---|--------------|------------|---------|--------------------|-----------------|
| | Surrey | South East | England | against South East | against England |
| July 2010 to June 2011 (offending in subsequent 12 months) | 33.6% | 33.9% | 36% | 9 of 19 | 43 of 142 |
| Percentage change compared to July 2008 to June 2009 baseline | +1.4% | +2.4% | +3.5% | | |

The most recent Ministry of Justice figures (Jan 2013) for Surrey indicate a 32.7% re-offending rate for young people in Surrey. This figure only reflects offending by the 10% of young people remaining in the formal justice system, not those receiving youth restorative interventions (YRIs). The published re-offending figure represents a small upturn in re-offending which is attributable to the effect of reducing the overall number of young people convicted – those remaining in the system are a higher risk group who are more likely to re-offend. Re-offending rates for those receiving a YRI indicate a 26% reduction in re-offending compared with formal criminal justice sanctions (caution and prosecution) and overall offending and re-offending by young people in Surrey is reducing.

The driving force behind the improvement in youth justice outcomes has been the implementation of a restorative justice strategy across the partnership. Central to this has been the development of co-located youth integrated offender management unit staffed by police and Youth Support Service personnel, which has oversight of the vast majority of youth offences in the county. The development of the YRI as an alternative to formal criminal justice disposal has been the mechanism which has underpinned improved youth justice outcomes in Surrey. This has not only delivered much of the reductions in first time entrants, it has meant that victims are now routinely participating in the resolution of youth offences and are reporting increased satisfaction in the youth justice process as a result. In total the reduction in first time entrants in the last five years has meant there are more than 7,500 young people beginning adulthood without the burden of a criminal record.

The YRI has also been critical to the success of Surrey's reducing looked after children's offending strategy which has halved the number of looked after children offending. Particular success has been achieved in preventing Surrey's looked after children entering the criminal justice system for the first time (getting a criminal record) with no Surrey resident looked after child being a 'first time entrant' in 2011 or 2012. Surrey is leading work across the south-east region in order to ensure wherever our looked after children are placed they get the protection they require from offending and being drawn into the criminal justice system.

The focus of the Youth Support Service on increasing participation, preventing homelessness, developing more effective responses to emotional and mental health problems, and delivering improved services to support families, further supports the drive to reduce reoffending. This in turn will promote a further reduction in both remands and custodial sentences. The implementation of restorative approaches within the youth justice system enables Surrey to redirect resources from reacting to re-offending through court ordered interventions, to working with young people to reduce the risk factors that lead to offending behaviour as part of a broader strategy to remove barriers to participation in education, training and employment.

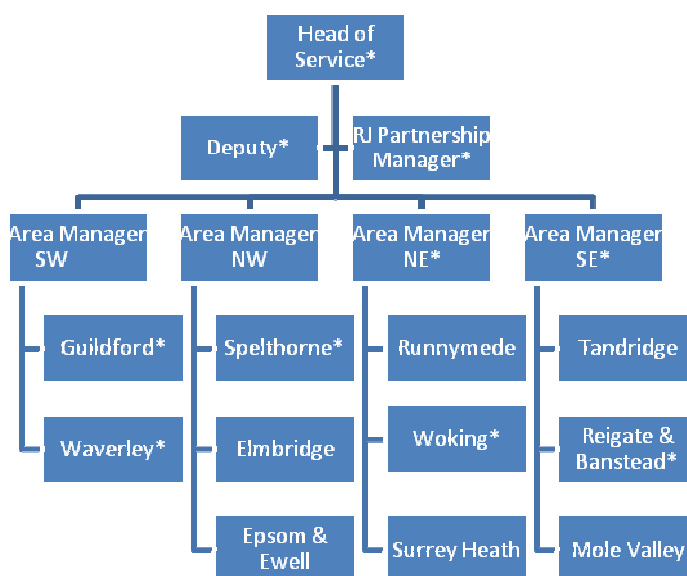
Resourcing and value for money

Outcome: efficient deployment of resources to deliver effective youth justice services to prevent offending and reoffending.

The youth justice strategic plan should provide an overview of how the youth offending team management board and wider partnership will ensure that the youth offending team has sufficient resources and infrastructure that are appropriately deployed to deliver youth justice services in its area in line with the requirements of the National Standards for Youth Justice Services.

Youth justice services are delivered in Surrey by the integrated Youth Support Service (YSS). This new service delivers youth justice services alongside a range of other support for vulnerable young people through eleven borough teams grouped within four operational areas of the county. The diagram below shows how the service is organised in terms of our capacity to support and deliver youth justice services with those managers marked (*) having significant youth justice experience. Other managers within the service bring complementary skills in youth work and careers guidance. Each of the eleven borough teams includes an appropriate complement of practitioners with youth justice skills and experience. We have three court locations at Guildford, Staines (in Spelthorne) and Redhill (in Reigate & Banstead).

Simplified organisation chart showing management posts with youth justice expertise:



Bail and remand

An out of hours rota operates to provide cover for Surrey courts sitting on Saturdays and bank holidays. This enables the service to respond to unscheduled remand hearings and ensures that where possible young people are not remanded to youth detention accommodation (remand to prison custody or remand to secure facilities). The service has responsibility for youth homelessness prevention and is the single point of referral for all young people aged 16-18 presenting as homeless. The service commissions a range of supported accommodation options to meet the needs of young people combined with a strategy to enable young people to return home wherever it is safe and

feasible to do so. The availability of these resources enhances the service's capacity to meet the needs of young people who are at risk of being denied bail and help position the service to respond to the opportunity of the transfer of financial responsibility for young people remanded to youth detention accommodation following the implementation of the Legal Aid Sentencing and Punishment of Offenders Act from April 2013.

Youth restorative intervention (YRI)

The YRI is a joint initiative with Surrey Police and extends the range of pre-court diversionary options and is generally (but not exclusively) deployed prior to either the youth caution or youth conditional caution. It offers offenders and victims the opportunity for timely and informal resolution of the harm caused by offending. As a consequence, the number of first time entrants (FTE) to the youth justice system fell by 59% in the year 2011/12 (564 in 2010/11 falling to 230 in 2011/12) and falling by a further 35% (to 149) in 2012/13.

Internal evaluation of the first year of the YRI's operation provides evidence of improved victim satisfaction, a 26% reduction in re-offending and value for money calculated at a speculative £4.2million lifetime saving to the Surrey tax payer since the YRI began. Furthermore, the 52% reduction in the overall number of 'youth disposals' in the last four years strongly supports a case for the YRI to continue to contribute to crime reduction and community safety. A more detailed external evaluation of the YRI has been commissioned to better understand the social and financial impact of the YRI.

YRI quality control and assurance includes quarterly reporting to the integrated offender management board; quarterly victim satisfaction survey; six monthly surveys of young people receiving YRIs; and a scrutiny panel that sits four times a year involving 'deep-dive' scrutiny of YRI casework. Membership of the scrutiny panel includes youth court chairs (magistrates), community panel members, Crown Prosecution Service, HM Court Service, and the assistant police and crime commissioner for victims.

Referral orders

As with overall numbers of young people brought before the courts the number of referral orders has also been reducing. This is not least as a consequence of the introduction of the YRI described above. Furthermore, the introduction of the YRI and the associated lengthening of the road to the court door has meant a change in the profile of young people now made subject to referral orders. These young people are more likely than before to have complex needs and vulnerabilities, are more likely to have committed more serious offences, are less likely to have made full admissions at the outset and more likely to be subject to a referral order made for a longer duration.

Furthermore the YSS is mindful of the YJB review of 'panel matters' training for community panel members (and restorative justice facilitator training for youth offending team staff), and new legislation introduced during 2012 that removes the previous restrictions on the availability of the referral order in the youth court and implications for referral order practice brought about by our own service transformation.

For these reasons a short-life referral order review group has produced a review report with 39 recommendations for referral order practice improvement. This review report is currently subject to consultation with an anticipated timetable for implementing service improvements from January 2014.

The focus for change will be the accessibility of the referral order for victims of crime and to address the involvement and confidence of the local magistracy in the referral order practice.

Youth rehabilitation order

The youth rehabilitation order (YRO) is a generic community sentence for young offenders and combines a number of sentences into one generic sentence. It is the standard community sentence used for the majority of children and young people who offend. It simplifies sentencing for young people, while improving the flexibility of interventions. The YRO represents a more individualised risk and needs-based approach to community sentencing, enabling greater choice from a 'menu' of requirements which include supervision (regular meetings with a supervising officer), groupwork, community reparation and unpaid work, curfew and intensive supervision and surveillance (see below). Within Surrey the YRO is used by courts to provide a bespoke supervisory community based programme for young people with an emerging pattern of criminality. The intensive supervision and support requirement is reserved for young people who present an elevated risk to the community and for whom courts are considering a custodial sentence.

Intensive supervision and support (ISS)

ISS is delivered through our eleven borough teams which have access to a wide range of resources to support alternative to custody programmes. These include the group work programmes run in partnership with two local prisons ('Can do' at HMP Coldingly and for females only, 'New leaf' at HMP Send); the community reparation scheme and the Ready for Work programme (R4W) and access to an extensive outdoor learning and development programme. Together these resources can form the bulk of the ISS programme requirement. The number of ISS requirements in the last twelve months was exceptionally low at five orders (with low custody numbers also).

Custody

During 2012/13 nine young people received a custodial sentence. There are two custodial sentencing options for courts, the detention and training order which offers sentences of up to 24 months (we had eight such DTOs in 2012); and longer section 90 and 91 sentences available to the Crown Court, for more serious crimes (we had one section 91 order in 2012). The number of custodial sentences in Surrey is the lowest per capita use of custody in England for any sizeable authority and represents a 73% reduction in the use of custody for children and young people in Surrey over the last five years.

Priority young persons

The priority young person (PYP) scheme was introduced in Surrey in May 2012, as an evolution and improvement to our previous deter young offender (DYO) arrangements. It involves case managing Surrey YSS's most prolifically offending young people in partnership with police colleagues located within the youth integrated offender management (IOM) unit. The focus of this joint approach is on identifying these young people at the earliest opportunity and engaging them in restorative approaches wherever possible, in order to change behaviour. Early indications are that this scheme is supporting those young people identified to reduce their overall level and frequency of offending, in comparison to before the scheme was launched. The scheme and partnership approach will continue to be embedded over the coming year and its effectiveness will also continue to be monitored. A key measure of this will be the impact of the scheme on re-offending rates amongst our PYPs over a 12-month period.

Resources for 2013/14 - contributions from partners:

| Partner | Cash contribution | Value of seconded posts | Total |
|------------------|------------------------------|-------------------------|---------------------------|
| Police | 0 | 88,000 | 88,000¹ |
| Probation | 0 | 132,000 | 132,000 |
| Health | 183,000 | 88,000 | 271,000 |
| YJB | 839,000 | 0 | 839,000 |
| PCC | 54,495 | 0 | 54,495 |
| SCC | 2,618,505² | 0 | 2,618,505 |
| TOTAL | 3,695,000 | 308,000 | 4,003,000 |

¹Police contribution: The cash figure quoted understates the value of the Surrey Police commitment to the youth integrated offender management unit supporting co-located joint decision making and joint delivery of the youth restorative intervention the full costs of which are not fully reflected here.

²Surrey County Council: Estimate based on 2011/12 historical budget for youth justice service.

Structure and governance

Outcome: Integrated strategic planning and working with clear performance oversight to ensure effective delivery of youth justice services.

Youth justice partnership board

The youth justice partnership board has a clear focus on the principal aim of reducing offending and re-offending and maintains strategic oversight of performance of the youth justice system. The membership of the board provides senior representation from key partners to ensure that young people involved in the youth justice system have access to universal and specialist services delivered by partners and other key agencies in particular in support of the local authority's responsibilities under the Children Act 1989 and Crime and Disorder Act 1998 to:

- discourage children and young people within their area from committing offences
- take reasonable steps designed to reduce the need to bring criminal proceedings against children and young people in their area
- avoid the need for children within their area to be placed in secure accommodation.

The partnership board priorities for young people in the youth justice system in 2013/14 are:

1. improving participation rates
2. ending the use of bed and breakfast accommodation for 16 and 17 year olds
3. improving emotional and mental health of young people
4. reducing offending and re-offending with a focus on the most persistent and prolific
5. reducing an preventing offending by looked after children and young people
6. address the findings of the 'short quality screening' by HMIP in relation to safeguarding and public protection on non PSR cases
7. ensure that the risks presented by young people aged 18+ (the point of transition) are effectively managed by strong partnership work between the Youth Support Service and the Surrey & Sussex Probation Trust using seconded transitions probation officers.

Board membership

| Name | Post | Agency |
|--------------------------|--|---|
| Chairman: Nick Wilson | Director of Children's Services | Surrey County Council |
| Mary Angell | Cabinet Member for Children and Young People | Surrey County Council |
| Garath Symonds | Assistant Director for Young People | Surrey County Council |
| Frank Offer | Head of Commissioning | Surrey County Council |
| Ben Byrne | Head of Youth Support Service | Surrey County Council |
| Gordon Falconer | Community Safety Unit Senior Manager | Surrey County Council |
| Norman Fullarton | Area Head, Surrey Children's Service | Surrey County Council |
| Toby Wells | Deputy Head, Youth Support Service | Surrey County Council |
| Gavin Stephens | Assistant Chief Constable | Surrey Police |
| Lin Pedrick | Surrey Local Delivery Unit Director | Surrey & Sussex Probation Trust |
| Geoff Harris | Deputy Police and Crime Commissioner | Office of the Police & Crime Commissioner |

| | | |
|----------------|--|---------------------------|
| Meg Webb | Magistrate | SW Surrey Bench |
| Douglas Spinks | Deputy Chief Executive | Woking Borough Council |
| Vicky Stobbart | Associate Director Children & Families | Guildford & Waverley CCG |
| Julie Cook | Chief Housing Officer | Elmbridge Borough Council |

Partnership arrangements

Outcome: Effective partnership arrangements are in place between youth offending team (YOT) statutory partners and other local partners that have a stake in delivering local youth justice services, and these arrangements generate effective outcomes for children and young people who offend or are at risk of offending.

The youth justice arrangements in Surrey are fully integrated within the new Youth Support Service which is involved in a range of partnership opportunities through formal and informal arrangements as follows:

| Partnership | Benefits to the YOT/YSS |
|---|---|
| CAMHS Strategy Board | Opportunity to influence priorities and planning for CAMHS related services including maintaining commitment to existing resources (2 x band 7 health post) and access to universal and specialist mental health resources. |
| Criminal Justice Board | Board membership provides significant access to key decision makers and opportunities for influence on youth related matters. |
| Corporate Parenting Group | YSS representation on the corporate parenting groups ensures that we can promote strategies to reduce looked after children's involvement in the criminal justice system. |
| Youth Justice Advisory Committee | Quarterly meeting with the Resident Judge, Youth Panel Chairmen, legal advisers and CPS prosecutors which builds and maintains the confidence of sentencers in the Surrey youth justice offer. |
| Integrated Offender Management Unit (Youth) | Effective integrated working between YSS staff and Police Officers to administer and support the delivery of the Youth Restorative Intervention to both victims and offenders. |
| YRI Quality Assurance Panel | 'Deep-dive' scrutiny of YRI casework. (Membership of the YRI QA Panel includes panel chairs (magistrates), community panel members, CPS, HM Court Service, and an independent 'Victims Champion'). |
| DAAT Executive and DAAT Commissioning Group | Board membership provides opportunities to influence priorities and shape provision for young people. |
| Community & Public Safety Board | Range of community safety responsibilities, linkages to 11 Community Safety Partnerships. Opportunities for YSS to influence priorities and resource allocation. |
| Safeguarding Children's Board | Promote an appropriate focus on vulnerable teenagers including runaways and child exploitation as well as involvement in serious case reviews and quality assurance of safeguarding and public protect reports to the YJB. |
| 14-19 Partnership Board | Increasing participation for vulnerable learners with |

| | |
|---|---|
| | opportunities for the YSS to shape and influence the 14-19 agenda. |
| Children's and Young People's Partnership Board (Surrey's Children's Trust) | An overarching group that promotes the well-being and achievement of Surrey's young people (3 board members also sit on the Children's Alliance board). |
| MAPPA Strategic Management Board | Ensures effective management of a very small number of high risk offenders (including some young people) who pose a risk to the public. |
| Health & Well-being Board | We anticipate that this board will be critical to developing the health and well-being of young people, especially those in more marginalised groups. |

Risks to future delivery

Outcome: The youth offending team has the capacity and capability to deliver effective youth justice services.

| Risk | Action |
|---|--|
| The routing of a portion of YJB/MoJ funding through the police and crime commissioner could lead to a reduction in grant funding as youth justice may have to compete with other priorities for a smaller pool of community safety grant. This impacts on MoJ funding that in 2012/13 was around £110k. | The service will work with the police and crime commissioner to identify where service goals coincide with those of the PCC. |
| Difficulty recruiting and retaining qualified/experienced staff in a high cost area close to London where higher salaries are on offer. | Promote the benefits of an integrated service, offering wider scope for professional development and a work environment that offers a joined up approach to supporting vulnerable young people, including those involved in youth justice. |
| Proposed probation service reforms may require the partnership to work with a number of providers with the risk that the transitions work will become marginalised or fall victim to financial cuts. | Promote the profile of the transitions work within the partnership especially the benefits of effective management of the risks presented by complex cases moving from the youth to adult system. |
| Inspection – will the YSS be sufficiently in tune with the expectations of the inspectorate in view of strong emphasis (and considerable success) on pre-court diversion. | Maintain inspection preparedness with reference to inspection framework published by YJB/Ofsted. |
| Loss of focus on youth justice skills and focus within integrated service. | Support opportunities for practitioners and managers to maintain and develop youth justice skills. Lead responsibilities for youth justice identified within senior management portfolio. |

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COMMUNITIES SELECT COMMITTEE

Item under consideration: Youth Justice Strategic Plan 2013/14

Date Considered: 21 March 2013

At its meeting of 21 March 2013 the Communities Select Committee considered a report from the Youth Support Service enclosing the Youth Justice Strategic Plan for 2013/14, prior to submission to Cabinet for approval.

The Communities Select Committee considered benefits and concerns around the restorative justice approach, including: increased understanding of crime and effects of crime, re-offending rates, victim participation, costs of the approach, and links with the priorities of the new Police and Crime Commissioner. The levels of offending by Looked After Children were also considered. The Committee generally welcomed the restorative justice approach due to its focus on prevention and positive results in reducing the number of first time entrants into the youth justice system.

The Committee queried whether the new streamlined Youth Support Service had sufficient resource, if there was a substantial increase in youth offending in the future. The Committee were reassured that cross-service initiatives such as the Supporting Families Programme could potentially provide expertise and help ease such additional pressures.

Recommendation

Communities Select Committee recommends that Cabinet approves the Youth Justice Strategic Plan for 2013/14.

STEVE COSSER

Chairman of the Communities Select Committee

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SURREY COUNTY COUNCIL

CABINET

DATE: 26 NOVEMBER 2013

REPORT OF: MRS HELYN CLACK - CABINET MEMBER FOR COMMUNITY SERVICES

LEAD OFFICER: SARAH MITCHELL - STRATEGIC DIRECTOR FOR ADULT SOCIAL CARE

SUBJECT: SURREY FIRE AND RESCUE SERVICE (SFRS) PUBLIC SAFETY PLAN UPDATE



SUMMARY OF ISSUE:

Fire and Rescue Services are facing a changing demand. Sir Ken Knight's national review of efficiencies and operations in fire and rescue authorities in England ('Facing the Future', May 2013) set out that Fire and Rescue Services must adapt to provide more effective and efficient services. In particular, it identified that the biggest opportunities lie in wider transformative structural and collaborative approaches, requiring ambition and leadership to achieve this. The review advocated that authorities should not wait for national action before fully exploiting the large number of opportunities already within their grasp.

SFRS has established a long term plan, the Public Safety Plan 2011-2020. The service proposes to update and develop the Public Safety Plan to ensure it takes account of new information including the census data and intelligence regarding the changing environment, national and local demands.

Reviewing the plan at this point enables the Service to ensure the plan reflects the impacts of the revised Medium Term Financial Plan can be taken into account. The increasing financial pressures faced by public services emphasise the need to consider alternative models of delivery and operation to support the broadening range of activities delivered by fire and rescue services. This is in keeping with the emphasis on partnership and public service transformation.

RECOMMENDATIONS:

It is recommended that, to develop further the strategic direction and activities of Surrey Fire and Rescue Service, Cabinet endorses a review of the PSP 2011-2020 and prepare an updated plan for presentation to Cabinet in October 2014.

REASON FOR RECOMMENDATIONS:

1. SFRS continues to modernise and adapt to changing demands and the community risk profile. With central government considering Sir Ken Knight's Review, the increasing challenges around public spending, transformational collaborative working opportunities and our Medium Term Financial Plan (MTFP) targets it is the right time to develop the PSP further.

DETAILS:

Public Safety Plan Vision

2. The PSP 2011-20 described the vision for SFRS and established a framework for future development, setting out the improvements the Service intended to make to the fire and rescue service in Surrey during this period. The vision remains largely unchanged and the improvements the Service intended to make continue to be delivered as planned. However there is continuous change locally and nationally and as a fire and rescue service it is essential that the organisation is able to adapt to and take advantage of these changes.
3. With austerity measures continuing to beyond 2020, this Service will seek every opportunity to improve service delivery at reduced cost in our statutory responsibilities whilst effectively assuring local, regional and national resilience response capabilities.
4. The Medium Term Financial Plan refresh may alter financial planning assumptions and the opportunity to revisit the PSP principles is timely given the Services' leadership in the blue-light services collaboration work.
5. An update to the long term plan for SFRS will enable an enhancement to the intelligence picture in respect of for example, the Government's response to the Sir Ken Knight Review, the census data and extrapolations about population growth and demographic shift, the impacts of climate change and likely business environmental factors e.g. power outages. This work is in keeping with that underway in the Local Resilience Forum re climate change and other global and national threats and trends.
6. Updating the PSP will ensure that SFRS continues to achieve its mission to provide a professional and well supported Fire and Rescue Service which reduces community risk in order to save lives, relieve suffering and protect the environment and property and support the delivery of the Corporate Strategy 2013-18 – Confident in our future.

CONSULTATION:

7. Consultation with staff and trade unions will be undertaken as part of the business planning activity. The Fire Brigades Union have been informed about the high level implications with regard to service budget and potential strategic implications on the PSP delivery.
8. Consultation with other stakeholder will be undertaken as the opportunities are explored and detailed stakeholder analysis has commenced.

RISK MANAGEMENT AND IMPLICATIONS:

9. A risk register will be established as part of the process to ensure all risks are identified, reported and addressed through the various stages of the processes.
10. A similar model for delivery of the PSP 2040 will be adopted as that which was utilised for the PSP 2011-2020 development.

Financial and Value for Money Implications

- 11. The PSP will be reviewed and developed in keeping with the financial constraints set out in the Medium Term Financial Plan once approved. In the meantime the work will commence taking into account the proposals in the draft MTFP currently under scrutiny, pending approval in the new year.

Section 151 Officer Commentary

- 12. Finance will be fully involved in assessing the consequences of revisions to the PSP.

Legal Implications – Monitoring Officer

- 13. Legal Services will continue to be instructed to review any legal implications as the details of the proposals develop.

Equalities and Diversity

- 14. Equality Impact Assessments will be completed as the strategic recommendations are developed and delivered.

WHAT HAPPENS NEXT:

- 15. CFO Russell Pearson will:
 - Implement the recommendations stated above
 - Present to Cabinet an updated draft PSP prior to public consultation.

Contact Officer:

| | | |
|-----------|--|--------------|
| Liz Mills | Chief of Staff, Surrey Fire and Rescue | 01737 242444 |
|-----------|--|--------------|

Consulted:

| | |
|-----------------|---|
| Kay Hammond | Cabinet Associate for Fire and Police Services |
| Sarah Mitchell | Strategic Director for Adult Social Care |
| Paul Carey-Kent | Strategic Finance Manager, Adult Social Care and Fire and Rescue |
| David Kelly | Corporate Group Legal Services Manager, Legal and Democratic Services |

Annexes:

None

Sources/background papers:

- Public Safety Plan 2011 -2020
- Fire and Rescue Services Act 2004
- Civil Contingencies Act 2004
- Fire and Rescue National Framework for England, July 2012

SURREY COUNTY COUNCIL

CABINET

DATE: 26 NOVEMBER 2013

REPORT OF: MRS HELYN CLACK - CABINET MEMBER FOR COMMUNITY SERVICES

LEAD OFFICER: SARAH MITCHELL - STRATEGIC DIRECTOR FOR ADULT SOCIAL CARE

SUBJECT: SPECIALIST RESCUE AND CONTINGENCY CREWING EXTENSION



8

SUMMARY OF ISSUE:

This report provides a summary of activity and effectiveness of the private sector professional specialist rescue and contingency crewing (SRCC) pilot contract. The report highlights the positive impact of the contract through the current period of on-going industrial action by the Fire Brigades Union.

Further opportunities for improving operational impact and value for money are currently being explored. This report seeks permission to extend the contract pilot period to March 2015 in order to undertake a full evaluation of the pilot and ensure that new opportunities can be fully assessed.

RECOMMENDATIONS:

It is recommended that the current pilot contract for the provision of specialist rescue and contingency crewing capability is extended to 31 March 2015 with a break clause at 31 May 2014 to ensure suitable long term funding has been identified.

REASON FOR RECOMMENDATIONS:

1. SFRS has utilised the contingency crewing element of the contract during all periods of industrial action - this identified that the contractors are able to meet the minimum criteria established in the contract and have capacity to provide additional resources on request.
2. The additional capacity and flexibility provided by the SRCC contract offers potential to provide better value for money in a number of aspects of service delivery pertaining to SFRS, blue-light partners and other agencies. However, it is suggested that the current industrial action makes this an inappropriate time to take a long term decision on the SRCC arrangements, the benefits of which can be more fully assessed once the series of strike actions have concluded.
3. The Service intends to review and refresh the Public Safety Plan taking account of new information and government guidance. The recommendation will enable this activity to be completed prior to a decision on the future of the Specialist Rescue and Contingency Crewing contract, ensuring that the specification can take full account of SFRS requirements.
4. SFRS is therefore requesting approval from Cabinet to further explore these options by extending the current contract to 31 March 2015. The Service proposes to present the full year evaluation and proposals for consideration by

Cabinet prior to the expiration of this extension.

5. The confidential annex (item 15) details the effects required and delivered through the contract.

DETAILS:

6. On 23 October 2012, the Cabinet agreed that SFRS commence a one year pilot scheme with a private sector partner for the provision of professional specialist rescue and contingency crewing capability. Recommendation three of that paper was to report to Cabinet within six months of the commencement of the pilot contract, assessing the costs and benefits of the arrangements, taking account of developing partnership opportunities and emerging national practice in this area. The specialist rescue capability became operational on 1 February 2013 and full operating capability since June 2013, with all staff having completed the standard firefighting and rescue training courses.
7. The Fire Brigades Union (FBU) announced on 29 August 2013 that a majority of its members who voted were in favour of strike action regarding the trade dispute with the Department for Communities and Local Government. The dispute is around pension reforms in the fire and rescue service. At the time of writing, industrial action has taken place on four occasions; 25 September 2013, 19 October 2013 [postponed], 1 November and 4 November and 13 November 2013. A further ballot commence on 13 November 2013 seeking a mandate for action short of strike.
8. The decision by Cabinet in October 2012 put in place a suitable solution to meet the capability gap in the event of industrial action and which enabled SFRS to meet in full the legislative requirements. SFRS mitigated a significant risk by entering into a contingency contract with a private sector partner. This enhanced the provision of contingency crewing with highly skilled and specialist staff using the best equipment.
9. The current contract expires on 30 November 2013

CONSULTATION:

10. Consultation with staff and trade unions will be undertaken as part of the business planning activity. The Fire Brigades Union have been informed about the intended approach to the contract extension.
11. Consultation with other stakeholder will be undertaken as the opportunities are explored and detailed stakeholder analysis has commenced.

RISK MANAGEMENT AND IMPLICATIONS:

12. The existence of the current contract continues to mitigate significant risks to the Fire Authority. The Service continues to monitor and manage risks in line with the pilot project plan.

Financial and Value for Money Implications

13. Refer to item 15, the confidential annex.

Section 151 Officer Commentary

14. Refer to item 15, the confidential annex.

Legal Implications – Monitoring Officer

15. Legal Services confirms that the contract for the specialist rescue and contingency crewing capability services can be extended for a period of between 6 months and 2 years.

Equalities and Diversity

16. By ensuring that SFRS has sustainable services and minimal disruption to Surrey communities then there are no adverse equality and diversity implications.

WHAT HAPPENS NEXT:

17. The Chief Fire Officer will:
- Implement the recommendations stated above
 - Establish the longer term funding arrangements with the Finance Department and Cabinet Member for Community Services
 - Present to Cabinet the outcomes from the SRCC Review

Contact Officer:

Liz Mills Chief of Staff, Surrey Fire and Rescue 01737 242444

Consulted:

| | |
|-----------------|---|
| Kay Hammond | Cabinet Associate for Fire and Police Services |
| Sarah Mitchell | Strategic Director for Adult Social Care |
| Paul Carey-Kent | Strategic Finance Manager, Adult Social Care and Fire and Rescue |
| David Kelly | Corporate Group Legal Services Manager, Legal and Democratic Services |
| Ross Duigood | Category Manager, Procurement and Commissioning |

Annexes:

Annexe (item 15) – Specialist Rescue and Contingency Crewing

Sources/background papers:

- PSP 2020
- Fire and Rescue Services Act 2004
- Civil Contingencies Act 2004
- Fire and Rescue National Framework for England, July 2012

Mid term report – Specialist Rescue and Contingency Crewing**Current situation**

1. Specialist Group International (SGI) provide Surrey Fire and Rescue Service (SFRS) an enhanced specialist rescue capability (beyond its ability to self provide economically) and a contingency which gives continuity to a life saving public service in times of difficulty e.g. Under any circumstance when normal capacity is degraded, exhausted or stretched due to widespread sickness, industrial action, large or unusual events occurring which could also be over long periods of time.
2. The specialist rescue capability that is supplied by SGI through the contract consists of one crew of five personnel available on an immediate response basis on weekdays from 08:00 – 17:00 hours, with the same capability available on a one hour delay at all other times. Additionally other crews are available on request and the whole of SGIs capability can be brought up to immediate readiness at any time with just a few hours notice.
3. This provision of staff, vehicles and equipment (capability) for Fire and Rescue in accordance with Surrey competency standards plus specialist rescue operations including, but not limited to, search and rescues from water, air operations, subsurface search and rescue, confined space and high rescue, as well as a human remains search and body recovery capability is a unique model which gives both flexibility in how capability is drawn together and the ability to rapidly change the focus and priority of the rescue effect required as the situation changes.

Current experience

4. It is a requirement of the national framework for Fire and Rescue Authorities (FRA) to assess all foreseeable fire and rescue related risks that could affect their communities (from local fires to terrorist attacks) and put in place arrangements to mitigate these risks, either through adjusting existing provision, more effective collaboration and partnership working, or building new capability. The FRA need to deliver effective and proportionate prevention and protection activities and be ready to respond to incidents within their areas and across the country to keep communities safe.
5. SGI's ability to provide a wide range of capability to SFRS enables it to guarantee a minimum capability to meet its statutory requirements of Fire, Rescue and Civil Protection at all times. In addition it is a capability multiplier insofar as it provides a simultaneous response to traditional Fire and Rescue incidents when required and also specialist rescue teams and equipment at the same time. By undertaking normal Fire and Rescue tasks during times of degradation it not only fills this gap but also frees specialist SFRS officers to undertake some of their specialist tasks e.g. command and control, fire investigation, national resilience roles such as dangerous substance identification. During the current strike SFRS was 1 of only 4 nationally available teams that provide Detection and Monitoring. Also with SGI providing water rescue during the strike Surrey were also able to provide a local, regional and national boat rescue capability too.

6. SGI has proven that it can be relied upon to provide the minimum capability SFRS needs to have an effective response during industrial action. They have also proven that they can, during normal operations, provide an enhanced capability which is also needed and contributes to the SFRS mission of saving life, relief of suffering, protecting property and the environment.
7. During the pilot period SGI have responded to traditional Fire and Rescue calls where they have replaced SFRS staff at incidents during times when SFRS staffs were striking. Additionally they work alongside SFRS crews on a daily basis, during the recent high winds and the aftermath they were called upon on two separate occasions to rescue persons trapped under fallen trees, and to cut a path through fallen trees for normal fire and rescue crews to proceed to incidents. They were also called to make safe dangerous structures at height; all of this was within a 3 hour period. Working alongside SFRS they have been deployed with their unique surface and subsurface water search and rescue equipment and personnel to find and recover both the living and dead from Surrey waters on numerous occasions. They also have been called upon to deploy their height rescue teams to support both SFRS and the Police in rescuing people or provide safe systems of work for emergency crews including both the Police and Ambulance Services.
8. The tables below provide a summary of the number of incidents SGI have been requested at or mobilised to over the pilot period. It also provides a summary of the impact on available crews during the recent periods of industrial action.

Table 1 – SGI use during strike for traditional fire and rescue duties

| <u>Traditional Fire and Rescue duties – Only undertaken during strike</u> | | |
|--|---|--|
| Date | Non striking crewed fire engines | SGI crewed fire engines¹ |
| 25 10 2013 | 8 | 4 |
| (Total incidents attended 3) | | |
| 01 11 2013 | 6 | 4 |
| (Total incidents attended 2) | | |
| 04 11 2013 | 4 | 4 |
| (Total incidents attended 7) | | |
| 13 11 2013 | 8 | 4 |
| (Total incidents attended 9) | | |

¹ SGI crewed fire engines during strike will also have a SFRS Officer in charge. At all other times they deploy independently and integrate into the command structure at the incident.

Table 2 – SGI use for specialist rescue at times outside of strike

| <u>Total special rescue duties undertaken at times outside of strike</u> | |
|---|---------------------------------|
| Rescue from water | 6 (2 of these were with London) |
| Rescue from height | 5 |
| Making safe dangerous structures | 3 |
| Chain saw | 3 (1 of these was in Kent) |
| Total | 17 |

9. Since the beginning of the pilot the trend for use of SGI is now significantly upward as SFRS Officers gain confidence in SGIs ability and cultural difficulties are starting to be overcome. Therefore we expect their use to increase.
10. Included below are two examples from a number of recent incidents where SGI have attended and made significant contribution to their successful conclusion.

Case Study 1
01.08.13 - Sadlers Ride, West Molesey,

SFRS received a call to a “person lost in river”. Whilst SFRS have water rescue capability, we are unable to deploy teams under the water. SGI were deployed to take advantage of their unique side scanning radar equipment and highly trained specialist dive teams. SGI carried out a swift river search and recovered one deceased person. The nearest alternative resource would have been despatched from Sussex Police, should they have been available. This would normally see a response within 6 hrs, causing considerable distress to family members who had arrived at scene and significant opportunity and financial costs through restricting resources across SFRS and other services.

Case study 2
28.10.13 - Tess Barn, Lydens Lane, Edenbridge

SFRS were called to assist Kent Fire and Rescue Service (KFRS) at an incident involving a young woman trapped underneath a fallen tree at an incident on the Surrey / Kent border. KFRS did not have an asset with the suitable skills or equipment to deploy. One Surrey fire appliance from Lingfield attended along with a rescue unit from SGI, equipped and trained to deal with this type of incident. SGI deployed a chain saw rescue team who were able to bring the incident to a quick conclusion. Unfortunately the young woman suffered fatal injuries, however with the assistance of SGI the incident was dealt with swiftly and in a dignified manner.

Future possibilities

11. SGI have qualified instructors in various techniques (working at height and water rescue), training for SFRS staff in these skills is currently provided under contract by a third party outside of the county, we are investigating the viability of SGI providing this more cost effectively locally. Additionally; as a result of the current pilot, SGI also now have qualified instructors in some fire and rescue techniques too and we are also investigating how we can make use of this to our mutual advantage.
12. During the pilot it has become clear that the SGI offer can be expanded to include a response to:
 - Marauding Terrorist Firearms Attack capability – from those qualified and experienced to work under such conditions
 - Incident Support Unit(s) – delivery and set -up
 - Animal Rescue
 - Environmental Protection Unit
 - Confined space rescue
 - Rope rescue
 - Dive rescue, search and recovery
 - Boat capability, search and recovery, swift water rescue
 - Helicopter(s) – transport region-wide, viewing platform for wildfires, firefighting media, supplement Police and Air Ambulance
 - Mass decontamination and disrobe and re-robe functions*
 - High volume pumping*
 - Detection, identification and monitoring*
 - Urban Search and Rescue*
 - Enhanced emergency medical technician capabilities in line with but expanding remit of Ambulance Hazardous Area Response Team overcoming their deployment limitations
 - Contingency to other FRS
 - Maritime response capability
 - Contingency crewing for special appliances e.g. Aerial Ladder Platform
 - Supplementary ad hoc use in times of community crisis – using enlarged Land Rover fleet for example during times of electricity outage, heavy snowfall, pandemic flu – supporting other agencies e.g. Adult Social Care.
 - Training

** National assets in particular must remain available during industrial action – option to have a multi-agency approach to Mass Decontamination. Incident Command Units are to remain separate crewed by JECC personnel but we may need to consider contingency arrangement for this function.*

Conclusion

13. It is clear that during the first 6 months of operation SGI has provided SFRS a unique and extremely valuable service which has the potential to save lives that could ordinarily be lost; they have already made a positive contribution to the relief of suffering and the protection of property and the environment. The opportunity to expand their offer to us and partners for operational budgetary benefit plus income generating opportunities exists and there is an appetite for this both in SFRS, SCC, with blue light partners and commercially (airport fire services) too.

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SURREY COUNTY COUNCIL

CABINET

DATE: 26 NOVEMBER 2013

REPORT OF: MRS HELYN CLACK, CABINET MEMBER FOR COMMUNITY SERVICES

LEAD OFFICER: YVONNE REES, STRATEGIC DIRECTOR FOR CUSTOMERS AND COMMUNITIES

SUBJECT: REGULATION OF INVESTIGATORY POWERS ACT 2000 – UPDATED CORPORATE POLICY AND PROTOCOL



SUMMARY OF ISSUE:

1. The Cabinet is asked to endorse an updated Corporate Policy and Protocol on the use of the Regulation of Investigatory Powers Act 2000 (RIPA) by council services.
2. The proposed policy provides an updated framework to ensure that the Authority continues to comply fully with the requirements of RIPA following the coming into force of the Protection of Freedoms Act 2012 and to take account of the changes in the structure of the Trading Standards Service.

RECOMMENDATIONS:

3. Following statutory introduction of approval from a Justice of the Peace, it is recommended that the Cabinet endorses the proposed new Corporate Policy and Protocol on the application of the Regulation of Investigatory Powers Act 2000. (Annex 2)

REASON FOR RECOMMENDATIONS:

4. The introduction of a new Corporate Policy and Protocol will provide an updated framework to ensure that the authority continues to comply fully with the requirements of RIPA. It will maintain existing controls and the external audit regime and implement the additional statutory requirements of the Protection of Freedoms Act 2012.

DETAILS:

5. The Human Rights Act 1998 (HRA) came into force in October 2000. One of the principles enshrined in the HRA is that everyone has the right to respect for their privacy and family life, home and correspondence and that there should be no interference by a public authority except in accordance with the law.
6. The HRA recognises however that there are circumstances in a democratic society where it may be necessary for the State (which includes a range of

public authorities of which Surrey County Council is one) to interfere with these rights.

7. RIPA is a piece of legislation designed to regulate the powers of public bodies to carry out surveillance and investigation, and covering the interception of communications.
8. RIPA only permits the Council to exercise powers for the purposes of preventing and detecting crime or preventing disorder and only if it can be demonstrated that the proposed action is lawful, necessary and proportionate to the objective.
9. Only specific sections of RIPA relating to directed surveillance, use of a covert human intelligence source and the acquisition of communications data are applicable to all public authorities.
10. Directed surveillance is the covert and targeted monitoring of an individual **not** including that defined as intrusive. Directed surveillance would be used in situations such as underage test purchase exercises where it forms an integral part of the risk assessment and allows a trading standards officer to protect the young person attempting the transaction by observing the sale and facilitating rapid intervention where appropriate.
11. Covert human intelligence sources (CHIS) are used in situations where it is necessary to cultivate a relationship with an individual in order to obtain evidence of criminal activity and it would frustrate the investigation for the officer to declare they are working for trading standards. An example would include online test purchasing exercises based around social media websites where criminals as part of their strategy to avoid prosecution will only interact with specific approved groups of people.
12. Acquisition of communications data is used to obtain the subscriber and billing details of a person under investigation. This is often the only way of identifying rogue traders and criminal gangs who deliberately withhold information from victims in an attempt to avoid liability and evade investigation and prosecution.
13. The Council **cannot** obtain the content of any phone calls, e-mails or postal communication.
14. Over the last five years the Trading Standards Service has been the only service that has utilised this legislation.

During 2012/13 a total of 9 RIPA authorisations were granted. For comparison purposes the figures for three previous years are also given.

| | 2009/10 | 2010/11 | 2011/12 | 2012/13 |
|--|---------|---------|---------|---------|
| Communications Data Authorisations | 26 | 14 | 11 | 7 |
| Directed Surveillance Authorisations | 9 | 39 | 10 | 1 |
| Covert Human Intelligence Source authorisations | 1 | 0 | 0 | 1 |

15. The Trading Standards Service uses RIPA in a range of scenarios affecting community safety from underage sales of age restricted products to investigating incidents of rogue traders using virtual websites to sell dangerous goods to unsuspecting consumers. As criminals become more sophisticated and with the increase in organised criminality and their use of advanced technology the investigative techniques governed by RIPA have become an important tool in the successful investigation and prosecution of these rogue elements and ultimately the protection of local communities and the legitimate economy.

Example

16. An older Surrey resident was cold called by a group of men who persuaded the individual that his roof required immediate work. Once started the initial quote of £650 ballooned to £26,350. It was subsequently estimated that to return the property to its original condition prior to the start of the extremely poor work would cost the resident up to £14,500.

17. In this case the only evidence available were two contact numbers the scammers had written on a scrap of paper. Using the powers contained within RIPA relating to accessing communications data it was possible to identify the individuals and instigate an investigation. A pattern of related activity was identified dating back to 2009.

18. The Trading Standards service is responsible for overseeing the use of RIPA by Surrey County Council as a whole, however any Unit/Service that proposes to undertake directed surveillance, covert human intelligence sources, or obtaining permitted communications data, must first demonstrate that all relevant staff have received instruction in the use and compliance with RIPA and the various Codes of Practice. Only then will they be added to the Authorised Officer List. In relation to obtaining communications data the designated officer will have undergone Home Office recognised and accredited training.

19. Paragraph 3.6 of Part 1 of the Scheme of Delegation prescribes the senior officers capable of authorising Covert Surveillance and the Use of Covert Human intelligence.

20. 'The Trading Standards Community Protection Manger and Policy and

Operations Manager are required to authorise directed surveillance, the use of covert human intelligence sources and communications data checks and to keep the Council's central record of such authorisations in accordance with the Regulation of Investigatory Powers Act 2000¹.

21. The designated senior officers are prescribed on page 67 of the Scheme of Delegation within Part 3 Specific Delegation to Officers as amended October 2013.

| | | |
|-----|---|--|
| TS6 | Community Protection Manager Policy and Operations Manager | To authorise directed surveillance and the use of covert human intelligence sources (other than those authorisations that are likely to lead to the disclosure of confidential information, or where a juvenile or vulnerable individual is used as a source, which can only be authorised by the Chief Executive or in his absence a Director acting as his Deputy) and to keep the Council's central record of such authorisations in accordance with the Regulation of Investigatory Powers Act 2000. |
| TS7 | Community Protection Manager Policy and Operations Manager | To authorise Communications Data checks on submission from the Single Point of Contact under the Regulation of Investigatory Powers Act 2000 and to keep the Council's central record of such authorisations in accordance with the Regulation of Investigatory Powers Act 2000 |

22. The Protection of Freedoms Act 2012 implements an additional level of scrutiny to ensure the principles contained within the HRA.
23. The amendments reflect the judicial approval now required namely that a Justice of the Peace is satisfied that individual applications for use of RIPA powers are legal, necessary and proportionate.
24. These controls complement the checks and balances already in place both internally and externally. Internally safeguards include training and monitoring of officers to ensure competence, use of prescribed senior level officers for review and authorisations, including the Strategic Director for Customers and Communities and regular reporting to the Head of Legal and Democratic Services, the Communities Select Committee and the Cabinet Member for Community Services.
25. External scrutiny is undertaken by audits conducted by the Office of Surveillance Commissioners and the Interception of Communications Commissioners Office. The subsequent reports are then integrated into the internal reporting mechanisms.

26. The 2012 Act has also introduced minimum thresholds that have to apply before directed surveillance can be authorised:
- Criminal offences that are punishable by a maximum term of at least 6 months imprisonment, or
 - Criminal offences relating to the sale of alcohol or tobacco to underage persons.
27. The proposed policy has also been amended to reflect changes to the structure of the Trading Standards Service specifically staff titles and the designated named officers.

| Old Title | New Title |
|---|---|
| Head of Trading Standards | Community Protection Manager |
| Assistant County Trading Standards Officer | Policy and Operations Manager |
| Enterprise Manager | Business Intelligence and Legal Manager |
| Safer & Stronger Communities Team Manager | Investigations and Enforcement Manager West |
| Economy & Environment Team Manager | Business Advice and Compliance Manager East |
| Trading Standards Investigations Team Manager | Deleted |

28. The current policy and protocol was approved by the Cabinet on 3 November 2009 and amended on 28 September 2010.
29. The current Corporate Policy and Protocol on the use of the Regulation of Investigatory Powers Act 2000 (RIPA) is attached as Annex 1.
30. The proposed amended Corporate Policy and Protocol on the use of the Regulation of Investigatory Powers Act 2000 (RIPA) is attached as Annex 2.
31. The amendments necessary to enact the obligations of the Protection of Freedoms Act 2012 directly affect Parts 4, 11 and 12 of the Corporate Policy and Protocol.
32. The changes in the structure of the Trading Standards Service are reflected in Part 16 of the Corporate Policy and Protocol.

CONSULTATION:

33. Given these amendments are necessary in order to comply with changes to statutory provisions consultation has been undertaken with Surrey County Council Legal Officers and their observations/amendments implemented.

RISK MANAGEMENT AND IMPLICATIONS:

34. The adoption and application of this policy and protocol will help ensure that the local authority continues to act correctly when carrying out criminal investigations and reduce the risk of any actions in relation to allegations of breaches of the Human Rights Act. It will also minimise the potential reputational risk from any claims of misuse of investigatory powers.
35. RIPA requires the local authority to keep a central record of all authorisations. As the primary user of the legislation the central record is maintained and retained by the Trading Standards service. All authorisations are also subject to regular external inspection to ensure compliance with requirements of RIPA. Surrey County Council was last inspected by the Interception of Communications Commissioners Office (for communication data checks) in 2009 and by the Office of the Surveillance Commissioner (for Directed Surveillance and CHIS authorisations) in 2011. Each time the Commissioner has indicated that Surrey County Council has acted correctly. All recommendations for process improvements have been implemented.

Financial and Value for Money Implications

36. Application of this policy and protocol will minimise any risk of claims being made against the local authority alleging Human Rights breaches.
37. The revised policy will be administered by Trading Standards within existing resources and budgets. The presentation of each authorisation to the Justice of the Peace will be carried out by existing Trading Standards staff and no fee is payable.

Section 151 Officer Commentary

38. The Section 151 Officer confirms that the proposed updated policy has no new financial implications and can be delivered within existing resources and budget. Implementation of the revisions will ensure compliance with updated legislation and will therefore ensure that risks are minimised.

Legal Implications – Monitoring Officer

39. The Monitoring Officer has had the opportunity to review this report and is satisfied that it makes reference to the relevant statutory provisions and that the policy is in accordance with the legal requirements.

Equalities and Diversity

40. An Equality Impact Assessment (EIA) has been completed and is attached as Annex 3 to enable the Cabinet to take account of the public sector equality duty when considering the report.
41. The proposed amendments to this policy and protocol will not impact on residents or staff with protected characteristics.

EIA summary of key impacts and actions

| | |
|---|--|
| <p>Information and engagement underpinning equalities analysis</p> | <p>A report on the use of the Regulation of Investigatory Powers Act 2000 including the proposed changes went before the Communities Select Committee in July 2013</p> <p>The RIPA Corporate Policy and Protocol last received approval from Cabinet on 3 November 2009</p> <p>Engagement and scrutiny will be a continuing process.</p> <p>Once introduced all services will be made aware of the policy and protocol amendments.</p> <p>An annual report on the use of RIPA is produced for consideration by the Communities Select Committee and the Head of Legal Services</p> <p>Quarterly updates on the use of RIPA are produced for the Cabinet Member for Community Safety.</p> |
| <p>Key impacts (positive and/or negative) on people with protected characteristics</p> | <p>No significant implications arising from this report</p> |
| <p>Changes you have made to the proposal as a result of the EIA</p> | <p>N/A</p> |
| <p>Key mitigating actions planned to address any outstanding negative impacts</p> | <p>N/A</p> |
| <p>Potential negative impacts that cannot be mitigated</p> | <p>N/A</p> |

42. However, it is important to consider the overall context of the policy already in operation and recognise that many rogue traders deliberately target elderly and vulnerable people. The investigative techniques covered by RIPA are very often used in such crimes to help identify and locate such criminals. The continuation of this policy and protocol will ensure that the Trading Standards service in particular can continue to effectively protect the most vulnerable people in our communities.

43. Any decision to use techniques covered by RIPA are made against standard criteria and not adversely influenced by ethnicity, race or other factors. The process requires consideration to be given to any local community influences or sensitivities.

WHAT HAPPENS NEXT:

44. The new policy and protocol will be introduced and all services made aware of the requirements.

45. An annual report produced for consideration by the Communities Select Committee.

- 46. An annual report produced for the Head of Legal and Democratic Services
 - 47. Quarterly updates produced for the Cabinet Member for Community Services.
-

Contact Officer:

Mr Ian Treacher, Policy and Operations Manager tel: 01372 371708

Consulted:

The report on the proposed changes went before the Communities Select Committee in July 2013

Annexes:

Annex 1 Current Corporate Policy and Protocol on the use of the Regulation of Investigatory Powers Act 2000 (RIPA)

Annex 2 Proposed amended Corporate Policy and Protocol on the use of the Regulation of Investigatory Powers Act 2000 (RIPA)

Annex 3 Equality Impact Assessment

Sources/background papers:

The Protection of Freedoms Act 2012

SURREY COUNTY COUNCIL

POLICY & PROTOCOL

ON THE REGULATION OF INVESTIGATORY POWERS ACT

Including, Directed Surveillance, use of Covert Human Intelligence sources and the Acquisition of Communications Data

Scope

This Protocol applies to Covert Surveillance, Covert Human Intelligence Sources and the Acquisition of Communications Data, as defined in the Regulation of Investigatory Powers Act 2000, undertaken by officers of Surrey County Council.

Human Right Act principles and the Regulation of Investigatory Powers Act 2000

The Human Rights Act 1998 (HRA) came into force in October 2000. One of the principles enshrined in the Act is that everyone has the right to respect for their privacy and family life, home and correspondence and that there should be no interference by a public authority except in accordance with the law. The HRA recognises however that there are circumstances in a democratic society where it may be necessary for the State (which includes a range of public authorities of which Surrey County Council is one) to interfere with these rights. The Regulation of Investigatory Powers Act 2000 (RIPA) make provision for public authorities to carry out certain forms of surveillance and use covert human intelligence sources in the course of investigations but this can only be done in accordance with certain principles and for the following purposes:

- in the interest of national security, public safety or the economic well-being of the country
- the prevention of disorder or the prevention/detection of crime
- the protection of safety, health or 'public morals'
- the protection of the rights and freedoms of others (including the protection of the environment).

There is a duty on the Council to act in a way that is compatible with the individual's rights and failure to do so may enable a person to seek damages against the Council or to use our failure as a defence in any proceedings that we may bring against them.

RIPA only permits the Council to exercise powers for the purposes of preventing and detecting crime or preventing disorder.

To be able to justify any interference with the right to respect for an individual's privacy under the HRA, the Council needs to demonstrate that any interference is not only for one the prevention or detection of crime, but is also:

- **lawful**
- **necessary** for the purposes of the investigation and
- **proportionate** to what we want to achieve

Covert Surveillance

Covert surveillance is sometimes needed in an investigation, but is likely to be regarded as an intrusion into an individual's privacy and a possible breach of his/her human rights. RIPA has been enacted to protect public authorities from challenge on the basis of a breach of human rights. For this reason, the terms on which covert surveillance may lawfully be undertaken, and the Council protected, have been explicitly set out in the RIPA and a statutory Code of Practice. Consideration must also be given to the requirements of the Data Protection Act in respect of the subsequent retention, use and storage of data or information obtained.

Where covert surveillance is considered appropriate, it is necessary for it to be **formally authorised**. This applies whether the surveillance is to be undertaken by Council Officers or by an outside agency acting on the Council's behalf. Authorising officers will need to satisfy themselves that a defensible

case can be made for the covert surveillance activity. RIPA applies controls on “directed surveillance” and “intrusive surveillance”. The Council can only authorise directed surveillance (as defined later in this document) and **cannot** “bug” properties or individuals.

Covert Human Intelligence Source (CHIS)

In a few investigations it is necessary and appropriate to use a human source that provides information in confidence and may also involve seeking information from a party who does not know that the information will be given to the investigator. The procedures set out in this document are intended to maintain safety, integrity and compliance with legislation by strictly controlling and regulating the relationship between the Council and a human intelligence source.

A Council officer who:

- establishes a relationship with another person to obtain information (without disclosing that purpose), or
- encourages a third party to establish or use a relationship with someone to obtain information, and to pass it on without that person’s knowledge

is acting as (or directing) a “covert human intelligence source” often referred to as undercover officers or the use of informants. Such activity may also breach an individual’s human rights and is therefore controlled by RIPA. The use of an “informant” that has been tasked to obtain information can be particularly involved and should only be used in special circumstances. The use of any human intelligence source must always be **formally authorised**.

Acquisition of Communications Data

The Council **cannot** obtain the content of phone calls, e-mails or postal communication. They can obtain the subscriber and billing details and where necessary the called and received numbers. Such activity would also breach an individual’s human rights and is therefore strictly controlled and is required to be **formally authorised**. The authorisation process must comply with an approved Code of Practice and be carried out by specialist trained Officers. Consideration must also be given to the requirements of the Data Protection Act in respect of the subsequent retention, use and storage of data or information obtained.

In cases of conflict between the Policy or Reference Guide and relevant statutes or the statutory Code of Practice, the statute or statutory Code shall prevail.

Surrey County Council Policy on the use of Surveillance and the Acquisition of Communication Data

In carrying out investigations into the alleged illegal activities of individuals and organisations, the Council will seek to ensure that any interference with the rights of any person is lawful, necessary and proportionate to the objectives of the investigation. In particular, the Council recognises that any use of covert surveillance by its staff (and others acting on its behalf) should be in accordance with the requirements of the Regulation of Investigatory Powers Act 2000 (as amended) and any statutory Code of Practice. Also, that the acquisition of communications data will be in accordance with the requirements of that Act and in addition the Regulation of Investigatory Powers (Communications Data) Order 2000 (as amended) and the statutory Codes of Practice.

To ensure compliance with the above, the Council has formally adopted and published this policy and guidance for officers.

Service Managers are required to ensure that officers and services act in compliance with this policy and guidance.

1 Reference Guide to procedures

- 1.1 This Reference Guide sets out the Council's procedures for the authorisation and conduct of covert surveillance operations, covert human intelligence sources and the obtaining of communications data. It provides a brief summary of the main requirements of relevant law and the Statutory Code of Practice.
- 1.2 The Guide is an aide for clarification and is not a substitute for the legislation or the Code itself, which must be regarded as the definitive reference material.
- 1.3 The Trading Standards service takes the lead for the County Council in relation to RIPA and the central file of authorisations is retained by the Head of Trading Standards who has the role of corporate RIPA Monitoring Officer.
- 1.4 All authorisations, reviews, renewals and cancellations, in their original form, must be submitted to the RIPA Monitoring Officer as soon as possible after they are granted, and a copy retained by the submitting service. The RIPA Monitoring Officer will retain all such documentation in a RIPA file. The RIPA Monitoring Officer is responsible for central quality control of all RIPA authorisations and documentation and should review each on receipt. He should ensure that all reviews and cancellations are carried out within any time limits set. The RIPA Monitoring Officer is responsible for ensuring that all authorising officers are adequately trained and that there is an effective policy for the heightening of RIPA awareness throughout the Council.

- 1.5 Where services other than Trading Standards wish to seek authorisation for activities covered by RIPA they should seek guidance from Legal Services or from the Trading Standards Service
- 1.6 The Council scheme of delegation identifies those posts which are able to authorise directed Surveillance and the use of Covert Human Intelligence Sources (CHIS). Those posts are highlighted in paragraph 4.2. No other officers may authorise these activities.

2 What is “surveillance”?

- 2.1 Surveillance includes monitoring, observing or listening to persons, their movements, their conversations or their other activities or communications. (NB surveillance does not necessarily involve the use of devices like binoculars, tape recorders or cameras.)
- 2.2 RIPA applies controls on “**directed surveillance**” and “**intrusive surveillance**”. **The Council can only authorise directed surveillance.**
- 2.3 Special restrictions apply to the interception of any communications (See section 3.7 and 12)

3. What is “Directed Surveillance”?

- 3.1 Surveillance will be “directed surveillance” if it is:
 - covert (i.e. intended to be carried out without the person knowing); and
 - undertaken for a specific operation (as opposed to, for example, routine CCTV surveillance of an area); and
 - carried out in such a way as to make it likely that private information will be obtained about any person (NB: not necessarily the person ‘targeted’).
- 3.2 “Private information” includes any information relating to a person’s private or family life. This phrase should be interpreted widely, and considered to include all manner of personal information including personal telephone calls made from work and business matters which are not intended to be public.
- 3.3 Secretly recording anything overtly observed or heard will be considered covert surveillance, e.g. secretly recording a phone call you make or receive.
- 3.4 Surveillance will not be covert (and will therefore be outside the definition of “directed surveillance” and not require RIPA authorisation) if the subject has been warned of it. Surveillance by CCTV (fixed or mobile) will not be covert if there is adequate signage.
- 3.5 Surveillance carried out in or into residential premises or any private vehicle, where the observer is present in the premises or vehicle or uses a surveillance device giving an equivalent quality of information is called

“intrusive surveillance” and local authorities cannot authorise such surveillance.

- 3.6 Special rules apply to the interception of communications. The Council is not permitted to intercept private mail or communications. Nor are they allowed to secretly monitor phone calls, emails, etc during the course of transmission (or to record them during transmission for possible subsequent monitoring) unless:

- either, the sender or recipient has consented,
- or the monitoring is of a Surrey County Council system for a purpose such as to detect unauthorised use. In the latter case, RIPA authorisation may not be required, as a general authorisation for ‘internal’ monitoring is contained in The Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000. However, strict conditions apply and anyone considering such monitoring should read the Regulations and take appropriate legal advice before proceeding. In particular, potential users of the system must have been made aware that monitoring might take place and hence the need for a published email policy allowing for the monitoring of emails sent from or received at work. It is also worthy of note that DPA guidance suggests that RIPA-type considerations should still be applied and an "Impact Assessment" made. (See the DPA Code of Practice)

- 3.7 All applications, authorisations, reviews and renewals require a consideration of proportionality and necessity. In considering these concepts regard should be made to each of the following:

Necessity: Whether the proposed covert surveillance is necessary for the purposes of preventing or detecting crime or preventing disorder and why it is necessary to use covert surveillance in the operation under consideration.

Proportionality: Is the proposed covert surveillance proportional to the mischief being investigated; b. Is the proposed covert surveillance proportional to the anticipated intrusion on the target and others. c. Have other overt means of acquiring the evidence been considered and discounted..

4 The authorisation process for surveillance under RIPA

- 4.1 Directed surveillance may only be undertaken with proper authorisation, which will ensure that the principles of **legality, necessity and proportionality** are properly considered.

Before surveillance may be carried out, the Investigating Officer must:

- complete an application form seeking authorisation
- obtain signed authorisation on that form from a designated authorising officer.

- 4.2 The County Council authorises the following designated officers to authorise surveillance. These Officers hold a role or rank as specified in the

Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003.

Head of Trading Standards
Assistant County Trading Standards Officer
Trading Standards Investigations Team Manager
Head of Legal Services

Where an authorisation may involve a “vulnerable” or juvenile source, RIPA requires that the authorization must come from the Chief Executive or in his / her absence a Strategic Director. The local authority has not in the past made any such authorization and it is extremely unlikely to need to do so in the future. In any such event legal advice must be obtained with reference to the legislation and Codes of Practice.

- 4.3 In all cases, authorising officers must be suitably trained and competent

5 Surveillance that might involve collateral intrusion

- 5.1 Collateral intrusion is where a third party’s privacy is infringed (e.g. where in monitoring the target individual an officer also observes, records or photographs one or more innocent third parties, this could be considered “collateral intrusion”).
- 5.2 Where authorisation for surveillance is requested, the authorising officer will, amongst other things, have to be satisfied that the risks of collateral intrusion have been considered and minimised and that any intrusion into privacy that may still occur is proportionate to what is sought to be achieved by the surveillance.
- 5.3 Accordingly, investigating officers will need to consider the potential for collateral intrusion in identifying possible locations for surveillance.
- 5.4 If directed surveillance unexpectedly gives rise to intrusion into a third party's privacy, the investigating officer should bring this to the attention of the Authorising Officer, so that the continuation of the authority can be reviewed and the decision recorded. If the collateral intrusion renders the surveillance disproportionate, then the authority should be cancelled and a new application made, if appropriate.

6 Surveillance where it is likely that ‘confidential material’ will be obtained

- 6.1 Confidential information includes people's communications with their solicitor or minister of religion, journalistic material, medical records and other matters which have particular sensitivity or where one would expect a particularly high level of privacy.
- 6.2 If, exceptionally, an investigating officer thinks that confidential information may be obtained in the course of conducting surveillance, then authorisation must be obtained from the most senior officers, namely Chief Executive or (in

his absence) Strategic Director. The local authority has not needed to do this previously and is unlikely to do so in the future. However the Office of Surveillance Commissioners has asked that provision for this be included in any corporate policy.

- 6.3 In all cases, authorising officers must be suitably trained and competent.

7 Where there is genuine urgency

- 7.1 If surveillance is required to be undertaken urgently, oral authorisation may be given. Oral authorisation is for use where an investigating officer believes that an operation would be jeopardised if the surveillance were not undertaken but there is insufficient time to obtain written authorisation. (NB. this process is not available where the officer simply omits to seek authorisation early enough). The authorising officer must subsequently complete the Authorisation Form and indicate why the matter was deemed urgent. The officer receiving the authorisation should also record (preferably in an official notebook) the circumstances of the authorisation.
- 7.2 Authorisation is not necessary if an officer undertakes limited surveillance as an immediate response to an event he encounters, where it would be impracticable to seek authorisation.

8 Authorisations for Surveillance Time Limits

- 8.1 Written authorisation for directed surveillance is valid for three months, but must be reviewed by the authorising officer at least every month. The authorising officer should complete the Review Form after carrying out the review.
- 8.2 If it is necessary to continue the surveillance for longer than three months, an application for a renewal of authorisation for surveillance must be made on Renewal Form before the authorisation ceases to have effect. A renewal will have effect for three months immediately following the expiry of the authorisation..
- 8.3 Oral authorisation runs for 72 hours from the time given. If the surveillance is required to continue past that period then written authorisation for a renewal must be sought.

9 Cancellation of Authorisation of Surveillance

- 9.1 At the end of any surveillance that has been carried out, the authorising officer must complete Cancellation Form to cancel the authorisation for surveillance and in any event before the expiry of any authorisation or renewal.

10 Officers Keeping and Destroying Records of Surveillance

- 10.1 All investigating officers have a legal obligation under the Criminal Procedures and Investigations Act 1996 to keep full and accurate records of criminal investigations. This would include all RIPA documentation and the results of the surveillance undertaken. In many circumstances there are legal obligations to disclose anything relevant to an affected party, and we may also have to demonstrate fairness and propriety to a court or tribunal reviewing what we have done.
- 10.2 Copies of authorisations, renewals and cancellations given should be retained on the investigation file and investigating officers must record:
- an account of events observed and/or conversations overheard (preferably in an official notebook)
 - a full account of any surveillance which has taken place in or on a private place (permitted only in order to maintain contact with a moving target or to assess whether the target has been lost)
 - reasons for, and the nature of, any inadvertent intrusion in or into a private place, and the results
 - reasons for selecting a specific target if authorised only for general observations
 - all records shall be kept in a safe and secure manner
- 10.3 A record of authorisations granted (copies of all the forms involved) must be kept in a safe and secure manner. The Trading Standards Service retains the central file of all authorisations and a copy of every authorisation granted needs to be forwarded to Trading Standards together with copies of any associated, reviews, renewals and cancellations.
- 10.4 Ultimately, all material gathered by surveillance must be destroyed (treat as confidential waste). Where a case goes to court, the material should be retained until there is no longer any prospect of any appeal against the court's decision (or, if a sentence of imprisonment is ordered in a criminal case, until the defendant has served the sentence). Should no action ultimately be taken in any case, surveillance material should be destroyed forthwith. Data Protection Act requires that data is not kept longer than necessary.

11 Acquisition of Communications Data under RIPA

- 11.1 There are circumstances when communications data is permitted to be obtained from Communications Service Providers (CSPs). Communications data does not include the content of any communication, but is information about the circumstances in which a communication has been sent, this applies to postal, telephone and Internet services.
- 11.2 RIPA defines the three types of communications data that can be obtained from the CSPs: subscriber information e.g. names and addresses of people to whom services are provided; service use information e.g. itemised telephone billing records; and traffic data e.g. information identifying the location from which a communication has been made. The local authority can only seek subscriber data and service use information but **NOT** traffic

data. More practical guidance on the processes and procedure for making Communications data checks has been developed by the Trading Standards service and is available directly from Trading Standards.

- 11.3 The authorisation process must comply with the approved Code of Practice and includes completion of all the necessary Forms. The final decision and submission must be by a named senior Officer who has been trained, tested and specifically authorized by the Home Office. There are currently five Officers within the Trading Standards Service of Surrey County Council able to request this type of information. These Officers have unique Home Office issued numbers and hence no other Officers in the Council should be able to obtain this type of information from the CSPs.
- 11.4 The principles of record keeping and destruction should, where applicable be applied as shown above (Section 10).

12 Covert Human Intelligence Sources (CHIS)

- 12.1 The most common use of this technique will be the use of an officer who is required to develop a relationship with an individual without disclosing that they are doing so on behalf of the Council, for the purposes of an investigation, for example when attempting to carry out a test purchase. Particular care must be taken to consider the safety and welfare of the officer.
- 12.2 The other less frequent use would be of an “informant” or similar party who is then tasked or encouraged to try to obtain information from another party, without disclosing the intention. The information obtained is then relayed to the Council for the purposes of an investigation. Of particular concern in these types of events must be the safety and welfare of the people involved (officer and “informant”). Also there must be strict control about information regarding the identities of those involved. As this type of investigatory technique requires particular care and control it should only be considered for use in investigation when no other option is available. Legal advice should be sought prior to any such operation in conjunction with advice from specialist officers in Surrey Police.
NOTE: Each CHIS will require management by a handler and controller. Records must be kept by a record maker in accordance with the Code of Practice for CHIS and the RIPA(Source Records) Regulations SI 2000/2725.
- 12.3 The authorisation process must comply with the approved Code of Practice and includes completion of all the necessary Forms. The principles outlined in Section 4, 5, 6, 7, all apply. The County Council has designated the specific officers/postholder under the corporate Scheme of Delegation to authorise the use of Covert Human Intelligence Sources. These Officers hold a role or rank as specified in the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003.
- 12.4 The list of postholders is found at paragraph 4.2
- 12.5 The Time Limits for the authorisation of Covert Human Intelligence Source shall be no more than 12 months and 72 hours for urgent oral authorisations.

Reviews should take place as appropriate and as frequently as considered necessary and practical by the authorising officer.

- 12.6 The principles outlined in Section 9 apply but in addition where necessary, the safety and welfare of the source should continued to be taken into account.
- 12.7 The principles of Section 10 apply however particular care must be exercised for the safe and secure storage and eventual destruction of any record.

13 Training

- 13.1 Any Unit/Service that proposes to undertake directed surveillance, covert human intelligence sources, or obtaining permitted communications data, must first ensure that all relevant staff have received sufficient instruction to enable them to comply with RIPA and the various Codes of Practice. They will then need to be added to the Authorised Officer List, and in the case of obtaining communications data have undergone Home Office recognised and accredited training.

14 Management Monitoring and Annual Report

- 14.1 Any service that undertakes directed surveillance, the use of covert human intelligence sources and acquisition of communications data should have in place a system of auditing to ensure that staff involved have had the necessary instruction to comply with RIPA and the Codes of Practice and that all the requisite procedures are consistently followed.
- 14.2 The procedures and records referred to in this Protocol are subject to inspection by Office of the Surveillance Commissioner (in relation to Surveillance and Covert Human Intelligence Sources) and the Interception of Communications Commissioner's Office (in relation to communication data).
- 14.3 The RIPA Monitoring Officer for the County Council is the Head of Trading Standards who maintains the central record of RIPA authorisations.
- 14.4 The Trading Standards Manager / Head of Trading Standards will produce an annual review of all corporate RIPA activity each year, which will summarise the range of issues for which RIPA authorisation was granted. The report will be submitted to the Head of Legal Services and to the Safer and Stronger Communities Select Committee. The review will include a summary of the results of any external inspection by the Office of Surveillance Commissioners and the Interception of Communications Commissioners Office. The report will then be published, with a view to ensuring openness, transparency and enhancing public confidence in the application of RIPA by the local authority.

15. Forms

- 15.1 Copies of all current RIPA forms for Directed Surveillance, Covert Human Intelligence Sources, Communications checks are retained by and are available from the Trading Standards Service.

16. Contact Officers

- 16.1 Various officers can be contacted for further information and advice on the application of RIPA

| | |
|-------------------|---|
| Peter Denard | Head of Trading Standards |
| Steve Ruddy | Assistant County Trading Standards Officer |
| Katherine Preston | Trading Standards Investigations Team Manager |

- 16.2 For Communications Data Checks the trained and Home Office accredited officers (SPOCs) are:

Katherine Preston
Steve Playle
Michele Manson
Keith Vivers
Tanya Griffiths

SURREY COUNTY COUNCIL

POLICY & PROTOCOL

ON THE REGULATION OF INVESTIGATORY POWERS ACT 2000

Including Directed Surveillance, use of Covert Human Intelligence sources and the Acquisition of Communications Data

Scope

This Protocol applies to Directed Surveillance, Covert Human Intelligence Sources and the Acquisition of Communications Data, as defined in the Regulation of Investigatory Powers Act 2000, undertaken by officers of Surrey County Council.

Human Right Act principles and the Regulation of Investigatory Powers Act 2000

The Human Rights Act 1998 (HRA) came into force in October 2000. One of the principles enshrined in the Act is that everyone has the right to respect for their privacy and family life, home and correspondence and that there should be no interference by a public authority except in accordance with the law. The HRA recognises however that there are circumstances in a democratic society where it may be necessary for the State (which includes a range of public authorities of which Surrey County Council is one) to interfere with these rights. The Regulation of Investigatory Powers Act 2000 (RIPA) make provision for public authorities to carry out certain forms of surveillance and use covert human intelligence sources in the course of investigations but this can only be done in accordance with certain principles and for local authorities for the **prevention of disorder or the prevention/detection of crime.**

There is a duty on the Council to act in a way that is compatible with the individual's rights and failure to do so may enable a person to seek damages against the Council or to use our failure as a defence in any proceedings that we may bring against them.

To be able to justify any interference with the right to respect for an individual's privacy under the HRA, the Council needs to demonstrate that any interference is not only for one the prevention or detection of crime, but is also:

- **lawful**
- **necessary** for the purposes of the investigation and
- **proportionate** to what we want to achieve

The Protection of Freedoms Act 2012 has introduced two significant changes to the use of RIPA

1) All local authority authorisations to use RIPA can only be given effect once an order approving the authorisation is given by a Justice of the Peace.

2) Applications for directed surveillance by local authorities must first meet the 'directed surveillance crime threshold'. Directed surveillance may only be authorised to prevent or detect criminal offences that;

- Are punishable by a maximum term of at least 6 months imprisonment, or,
- Are related to the sale of alcohol or tobacco to underage persons.

In cases of conflict between the Policy or Reference Guide and relevant statutes or the statutory Code of Practice, the statute or statutory Code shall prevail.

Directed Surveillance

Directed surveillance is sometimes needed in an investigation, but is likely to be regarded as an intrusion into an individual's privacy and a possible breach of his/her human rights. RIPA has been enacted to protect public authorities from challenge on the basis of a breach of human rights. For this reason, the terms on which directed surveillance may lawfully be undertaken, and the Council protected, have been explicitly set out in the RIPA and a statutory

Code of Practice. Consideration must also be given to the requirements of the Data Protection Act and Criminal Procedure and Investigations Act 1996 in respect of the subsequent retention, use and storage of data or information obtained.

Where directed surveillance is considered appropriate, it is necessary for it to be **formally authorised**. This applies whether the surveillance is to be undertaken by Council Officers or by an outside agency acting on the Council's behalf. Authorising officers will need to satisfy themselves that a defensible case can be made for the directed surveillance activity.

RIPA applies controls on "directed surveillance" and "intrusive surveillance". The Council can only authorise directed surveillance (as defined later in this document) and **cannot** "bug" properties or individuals.

Covert Human Intelligence Source (CHIS)

In a few investigations it is necessary and appropriate to use a human source that provides information in confidence and may also involve seeking information from a party who does not know that the information will be given to the investigator. The procedures set out in this document are intended to maintain safety, integrity and compliance with legislation by strictly controlling and regulating the relationship between the Council and a human intelligence source.

A Council officer who:

- establishes a relationship with another person to obtain information (without disclosing that purpose), or
- encourages a third party to establish or use a relationship with someone to obtain information, and to pass it on without that person's knowledge

is acting as (or directing) a "covert human intelligence source" often referred to as undercover officers or the use of informants. Such activity may also breach an individual's human rights and is therefore controlled by RIPA. The use of an "informant" that has been tasked to obtain information can be particularly involved and should only be used in special circumstances. The use of any human intelligence source must always be **formally authorised**.

Acquisition of Communications Data

The Council **cannot** obtain the content of phone calls, e-mails or postal communication. They can obtain the subscriber and billing details and where necessary the called and received numbers. Such activity would also breach an individual's human rights and is therefore strictly controlled and is required to be **formally authorised**. The authorisation process must comply with an approved Code of Practice and be carried out by specialist trained Officers. Consideration must also be given to the requirements of the Data Protection Act in respect of the subsequent retention, use and storage of data or information obtained.

Surrey County Council Policy on the use of Surveillance and the Acquisition of Communication Data

In carrying out investigations into the alleged illegal activities of individuals and organisations, the Council will seek to ensure that any interference with the rights of any person is lawful, necessary and proportionate to the objectives of the investigation. In particular, the Council recognises that any use of covert surveillance by its staff (and others acting on its behalf) should be in accordance with the requirements of the Regulation of Investigatory Powers Act 2000 (as amended) and any statutory Code of Practice. Also, that the acquisition of communications data will be in accordance with the requirements of that Act and in addition the Regulation of Investigatory Powers (Communications Data) Order 2000 (as amended) and the statutory Codes of Practice.

To ensure compliance with the above, the Council has formally adopted and published this policy and guidance for officers.

Service Managers are required to ensure that officers and services act in compliance with this policy and guidance.

1 Reference Guide to procedures

- 1.1 This Reference Guide sets out the Council's procedures for the authorisation and conduct of covert surveillance operations, covert human intelligence sources and the obtaining of communications data. It provides a brief summary of the main requirements of relevant law and the Statutory Code of Practice.
- 1.2 The Guide is an aide for clarification and is not a substitute for the legislation or the Code itself, which must be regarded as the definitive reference material.
- 1.3 The Trading Standards service takes the lead for the County Council in relation to RIPA and the central file of authorisations is retained by the Community Protection Manager and Policy & Operations Manager who both have the role of corporate RIPA Monitoring Officer.
- 1.4 All authorisations, reviews, renewals and cancellations, in their original form, must be submitted to the RIPA Monitoring Officer as soon as possible after they are granted, and a copy retained by the submitting service. The RIPA Monitoring Officer will retain all such documentation in a RIPA file. The RIPA Monitoring Officer is responsible for central quality control of all RIPA authorisations and documentation and should review each on receipt. He should ensure that all reviews and cancellations are carried out within any time limits set. The RIPA Monitoring Officer is responsible for ensuring that all authorising officers are adequately trained and that there is an effective policy for the heightening of RIPA awareness throughout the Council.
- 1.5 Where services other than Trading Standards wish to seek authorisation for activities covered by RIPA they should seek guidance from Legal Services or from the Trading Standards Service

- 1.6 The Council scheme of delegation identifies those posts which are able to authorise Directed Surveillance, the use of Covert Human Intelligence Sources (CHIS) and applications for Communications Data. Those posts are highlighted in paragraph 4.2. No other officers may authorise these activities.

2 What is “surveillance”?

- 2.1 Surveillance includes monitoring, observing or listening to persons, their movements, their conversations or their other activities.
(NB surveillance does not necessarily involve the use of devices like binoculars, tape recorders or cameras.)
- 2.2 RIPA applies controls on “**directed surveillance**” and “**intrusive surveillance**”. **The Council can only authorise directed surveillance.**

3. What is “Directed Surveillance”?

- 3.1 Surveillance will be “directed surveillance” if it is:
- covert (i.e. intended to be carried out without the person knowing); and
 - undertaken for a specific operation (as opposed to, for example, routine CCTV surveillance of an area); and
 - carried out in such a way as to make it likely that private information will be obtained about any person (NB: not necessarily the person ‘targeted’).
 - Targeted use of electronic surveillance. An example of which is ANPR (Automatic Number Plate Recognition), which can be used in conjunction with CCTV systems to track the movements of a vehicle by reference to the number plate.
- 3.2 “Private information” includes any information relating to a person’s private or family life. This phrase should be interpreted widely, and considered to include all manner of personal information including personal telephone calls made from work and business matters which are not intended to be public.
- 3.3 Secretly recording anything overtly observed or heard will be considered covert surveillance, e.g. secretly recording a phone call you made or receive.
- 3.4 Surveillance will not be covert (and will therefore be outside the definition of “directed surveillance” and not require RIPA authorisation) if the subject has been warned of it. Surveillance by CCTV (fixed or mobile) will not be covert if there is adequate signage and it is not used to target an individual.
- 3.5 Surveillance carried out in or into residential premises or any private vehicle, is called “**intrusive surveillance**” and **local authorities cannot authorise such surveillance.**
- 3.6 Special rules apply to the interception of communications. The Council is not permitted to intercept private mail or communications. Nor are they allowed to covertly monitor phone calls, emails, etc during the course of transmission

(or to covertly record them during transmission for possible subsequent monitoring). Unless it is doing so under the separate provisions of the Telecommunications (Lawful Business Practice)(Interception of Communications) Regulations 2000.

- 3.7 All applications, authorisations, reviews and renewals require a consideration of proportionality and necessity. In considering these concepts regard should be made to each of the following:

Necessity: Whether the proposed covert surveillance is necessary for the purposes of preventing or detecting crime or preventing disorder and why it is necessary to use covert surveillance in the operation under consideration.

Proportionality:

A. Is the proposed covert surveillance proportional to the mischief being investigated.

B. Is the proposed covert surveillance proportional to the anticipated intrusion on the target and others.

C. Have other overt means of acquiring the evidence been considered and discounted.

4 The authorisation process for Directed Surveillance under RIPA

- 4.1 Directed surveillance may only be undertaken with proper authorisation, which will ensure that the principles of **legality, necessity and proportionality** are properly considered.

Applications for directed surveillance only must first meet the 'directed surveillance crime threshold'. Directed surveillance may only be authorised to prevent or detect criminal offences that;

- Are punishable by a maximum term of at least 6 months imprisonment, or,
- Are related to the sale of alcohol or tobacco to underage persons.

Before surveillance may be carried out, the Investigating Officer must:

- complete an application form seeking authorisation
- obtain signed authorisation on that form from a designated authorising officer.

Once this is complete the application and accompanying paperwork must be prepared and presented for **judicial approval** by a **Justice of the Peace (JP)**. The JP **must be satisfied** that on the papers submitted that the **application is legal, necessary and proportionate**. This presentation will be made in private by one of the Senior Legal Officers within the Trading Standards service, or a similarly experienced officer.

(The requirement for judicial approval was introduced on 1 November 2012 by the Protection of Freedoms Act 2012)

- 4.2 The County Council authorises the following designated senior officers to authorise surveillance. These Officers hold a role or rank as specified in the

Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003.

Community Protection Manager
Policy & Operations Manager

Where an authorisation may involve a “vulnerable” or juvenile source, RIPA requires that the authorisation must come from the Chief Executive or in his / her absence a Strategic Director. The local authority has not in the past made any such authorisation and it is extremely unlikely to need to do so in the future. In any such event legal advice must be obtained with reference to the legislation and Codes of Practice.

- 4.3 In all cases, authorising officers must be suitably trained and competent and where appropriate operations must be risk assessed.

5 Surveillance that might involve collateral intrusion

- 5.1 Collateral intrusion is where a third party’s privacy is infringed (e.g. where in monitoring the target individual an officer also observes, records or photographs one or more innocent third parties, this could be considered “collateral intrusion”).
- 5.2 Where authorisation for surveillance is requested, the authorising officer will, amongst other things, have to be satisfied that the risks of collateral intrusion have been considered and minimised and that any intrusion into privacy that may still occur is proportionate to what is sought to be achieved by the surveillance.
- 5.3 Accordingly, investigating officers will need to consider the potential for collateral intrusion in identifying possible locations for surveillance.
- 5.4 If directed surveillance unexpectedly gives rise to intrusion into a third party's privacy, the investigating officer should bring this to the attention of the Authorising Officer, so that the continuation of the authority can be reviewed and the decision recorded. If the collateral intrusion renders the surveillance disproportionate, then the authority should be cancelled and a new application made, if appropriate.
- 5.5 In the unlikely event of collateral intrusion, it will be dealt with in accordance with statutory and internal policies and procedures.

6 Surveillance where it is likely that ‘confidential material’ will be obtained

- 6.1 Confidential information consists of matters subject to legal privilege, confidential personal information or confidential journalistic material as defined within sections 98 to 100 of the Police Act 1997.
- 6.2 Confidential information includes people's communications with their solicitor or minister of religion, journalistic material, medical records, communications

between a Member of Parliament and another on constituency matters, and other matters which have particular sensitivity or where one would expect a particularly high level of privacy.

- 6.3 If, exceptionally, an investigating officer thinks that confidential information as detailed within paragraph 6.1 and 6.2 may be obtained in the course of conducting surveillance, then authorisation must be obtained from the most senior officers, namely Chief Executive or (in his absence) Strategic Director. The local authority has not needed to do this previously and is unlikely to do so in the future. However the Office of Surveillance Commissioners has asked that provision for this be included in any corporate policy.
- 6.4 In all cases, authorising officers must be suitably trained and competent.

7 Where there is genuine urgency

- 7.1 It is anticipated that urgent applications will be extremely rare. An urgent application is one where the activity is to be carried out within 72 hours of the need becoming apparent. RIPA does allow the use of Directed Surveillance in genuine urgent, unplanned situations. In such circumstances specific requirements must be met and advice must be obtained from an officer listed at paragraph 16.
- 7.2 If the investigating officer can satisfy the authorising officer of the operational need for an urgent application the approval may be given orally. Judicial approval is still required for urgent applications **before** the activity can take place. Judicial approval is on the same basis as described in paragraph 4.1
- 7.3 Where oral approval is given a copy of the signed and completed application and order should be provided to the court the next working day.

8 Authorisations for Surveillance Time Limits

- 8.1 Written authorisation for directed surveillance is valid for three months, but must be reviewed by the authorising officer at least every month. The authorising officer should complete the review form after carrying out the review.
- 8.2 If it is necessary to continue the surveillance for longer than three months, an application for a renewal of authorisation for surveillance must be made on renewal form before the authorisation ceases to have effect. A renewal will have effect for three months immediately following the expiry of the authorisation. The process for renewing an authorisation is identical in all respects to that of an initial application.

9 Cancellation of Authorisation of Surveillance

- 9.1 At the end of any surveillance that has been carried out, the authorising officer must complete cancellation form to cancel the authorisation for

surveillance and in any event before the expiry of any authorisation or renewal.

10 Officers Keeping and Destroying Records of Surveillance

- 10.1 All investigating officers have a legal obligation under the Criminal Procedures and Investigations Act 1996 to keep full and accurate records of criminal investigations. This would include all RIPA documentation and the results of the surveillance undertaken. In many circumstances there are legal obligations to disclose anything relevant to an affected party, and we may also have to demonstrate fairness and propriety to a court or tribunal reviewing what we have done.
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- 10.3 A record of authorisations granted (copies of all the forms involved) must be kept in a safe and secure manner. The Trading Standards Service retains the central file of all authorisations and a copy of every authorisation granted needs to be forwarded to Trading Standards together with copies of any associated, reviews, renewals and cancellations.
- 10.4 Ultimately, all material gathered by surveillance must be destroyed (treat as confidential waste). Where a case goes to court, the material should be retained until there is no longer any prospect of any appeal against the court's decision (or, if a sentence of imprisonment is ordered in a criminal case, until the defendant has served the sentence). Should no action ultimately be taken in any case, surveillance material should be destroyed forthwith. Data Protection Act requires that data is not kept longer than necessary.

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to whom services are provided; service use information e.g. itemised telephone billing records; and traffic data e.g. information identifying the location from or to which a communication has been made. The local authority can only seek subscriber data and service use information but **NOT** traffic data. More practical guidance on the process and procedure for making Communications data checks is available directly from Trading Standards.

11.3 The authorisation process must comply with the approved Code of Practice and includes completion of all the necessary Forms. The principles outlined in Section 4, 5, 6, 7, all apply. The County Council has designated specific officers/postholders under the corporate Scheme of Delegation to authorise the use of Communication data checks. Those posts are highlighted in paragraph 4.2. No other officers may authorise the acquisition of communications data.

11.5 Once this is complete the application and accompanying paperwork must be prepared and presented for **judicial approval** by a **Justice of the Peace (JP)**. The JP **must be satisfied** that on the papers submitted that the **application is legal, necessary and proportionate**. This presentation will be made in private by one of the Senior Legal Officers within the Trading Standards service or a similarly experienced officer.

(The requirement for judicial approval was introduced on 1 November 2012 by the Protection of Freedoms Act 2012)

11.6 All requests of this type are submitted through a service provided by the National Anti Fraud Network (NAFN) who contact CSP's as a Single Point of Contact (SPoC) on our behalf and provide us with the results.

11.7 The SPoC is an officer who has undergone formal training with the Home Office, is independent from the investigation, will advise the applicant, and will submit applications for authorisation if, and only if, they meet all the formal requirements, including those of necessity and proportionality. Authorisation is then given by the Designated Senior Officer, also independent from the investigation. If the application is authorised, it is returned to the SPoC officer who will obtain the communications data from the CSP and pass it to the applicant. Officers able to act as designated officers and SPoC's are found at paragraph 16.

11.8 The principles of record keeping and destruction should, where applicable be applied as shown above (Section 10).

12 Covert Human Intelligence Sources (CHIS)

12.1 The most common use of this technique will be the use of an officer who is required to develop a relationship with an individual without disclosing that they are doing so on behalf of the Council, for the purposes of an investigation, for example when attempting to carry out certain types of test purchase. Particular care must be taken to consider the safety and welfare of the officer.

- 12.2 The other less frequent use would be of an “informant” or similar party who obtains information from another party, without disclosing the intention and the information obtained is then relayed to and used by the Council for the purposes of an investigation. Of particular concern in these types of events must be the safety and welfare of the people involved (officer and “informant”) and risk assessments must be carried out and recorded. Also there must be strict control about information regarding the identities of those involved. As this type of investigatory technique requires particular care and control it should only be considered for use in investigation in exceptional circumstances. Legal advice should be sought prior to any such operation in conjunction with advice from specialist officers in Surrey Police.

In such exceptional circumstances a CHIS will require management by a handler and controller. Records must be kept by a record maker in accordance with the Code of Practice for CHIS and the RIPA (Source Records) Regulations SI 2000/2725.

- 12.3 The authorisation process must comply with the approved Code of Practice and includes completion of all the necessary Forms. The principles outlined in Section 4, 5, 6, 7, all apply. The County Council has designated specific officers/postholders under the corporate Scheme of Delegation to authorise the use of Covert Human Intelligence Sources. Those posts are highlighted in paragraph 4.2. No other officers may authorise these activities.
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(The requirement for judicial approval was introduced on 1 November 2012 by the Protection of Freedoms Act 2012)

- 12.5 The Time Limits for the authorisation of Covert Human Intelligence Source shall be no more than 12 months. Reviews should take place as appropriate and as frequently as considered necessary and practical by the authorising officer.
- 12.6 The principles outlined in Section 9 apply but in addition where necessary, the safety and welfare of the source should continue to be taken into account.
- 12.7 The principles of Section 10 apply however particular care must be exercised for the safe and secure storage and eventual destruction of any record.

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- 13.1 Any Unit/Service that proposes to undertake directed surveillance, covert human intelligence sources, or obtaining permitted communications data, must first ensure that all relevant staff have received sufficient instruction to enable them to comply with RIPA and the various Codes of Practice. They will then need to be added to the Authorised Officer List, and in the case of

obtaining communications data have undergone Home Office recognised and accredited training.

14 Management Monitoring and Annual Report

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- 14.2 The procedures and records referred to in this Protocol are subject to inspection by Office of the Surveillance Commissioner (in relation to Surveillance and Covert Human Intelligence Sources) and the Interception of Communications Commissioner's Office (in relation to communication data).
- 14.3 The RIPA Monitoring Officer for the County Council is the Community Protection Manager who maintains the central record of RIPA authorisations.
- 14.4 The Community Protection Manager will produce an annual review of all corporate RIPA activity each year, which will summarise the range of issues for which RIPA authorisation was granted. The report will be submitted to the Head of Legal Services and to the Communities Select Committee. The review will include a summary of the results of any external inspection by the Office of Surveillance Commissioners and the Interception of Communications Commissioners Office. The report will then be published, with a view to ensuring openness, transparency and enhancing public confidence in the application of RIPA by the local authority.
- 14.5 In addition the Cabinet Member for Community Services also receives quarterly updates on RIPA use which provide greater detail of the individual authorisations for the period, whilst ensuring that individual operations cannot be identified and compromised.

15. Forms

- 15.1 Copies of all current RIPA forms for Directed Surveillance, Covert Human Intelligence Sources, Communications checks are retained by and are available from the Trading Standards Service.

16. Contact Officers

- 16.1 Various officers can be contacted for further information and advice on the application of RIPA.

| | |
|--------------|--|
| Yvonne Rees | Strategic Director for Customers and Communities (Senior Responsible Officer) |
| Steve Ruddy | Community Protection Manager (Monitoring Officer) |
| Ian Treacher | Policy and Operations Manager |

16.2 Designated Senior officers who may authorise Communications Data Checks are:

| | |
|--------------|-------------------------------|
| Steve Ruddy | Community Protection Manager |
| Ian Treacher | Policy and Operations Manager |

16.3 For Communications Data Checks the trained and Home Office accredited officers (SPOCs) who may submit applications authorised by a Designated Senior Officer are:

| | |
|----------------|--|
| Steve Ruddy | Community Protection Manager |
| Ian Treacher | Policy and Operations Manager |
| Steve Playle | Investigations & Enforcement Manager West |
| Michele Manson | Business Advice & Compliance Manager East |
| Graeme Preston | Business Advice & Compliance Supervisor East |
| Lee Ormandy | Business Intelligence & Legal Manager (effective from November 2013) |

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1. Topic of assessment

| | |
|-------------------|---|
| EIA title: | Regulation of Investigatory Powers Act 2000 – updated corporate policy and protocol |
|-------------------|---|

| | |
|--------------------|--|
| EIA author: | Mr Ian Treacher, Policy and Operations Manager |
|--------------------|--|

2. Approval

| | Name | Date approved |
|--------------------------------|------|---------------|
| Approved by¹ | | |

3. Quality control

| | | | |
|-----------------------|--|----------------------|--|
| Version number | | EIA completed | |
| Date saved | | EIA published | |

4. EIA team

| Name | Job title (if applicable) | Organisation | Role |
|------|---------------------------|--------------|------|
| | | | |
| | | | |
| | | | |

¹ Refer to earlier guidance for details on getting approval for your EIA.

EQUALITY IMPACT ASSESSMENT

5. Explaining the matter being assessed

9

| | |
|---|---|
| <p>What policy, function or service is being introduced or reviewed?</p> | <p>The Cabinet is asked to endorse an updated Corporate Policy and Protocol on the use of the Regulation of Investigatory Powers Act 2000 (RIPA) by council services.</p> <p>The proposed policy provides an updated framework to ensure that authority continues to comply fully with the requirements of RIPA following the coming into force of the Protection of Freedoms Act 2012 and to take account of the changes in the structure of the Trading Standards Service.</p> |
| <p>What proposals are you assessing?</p> | <p>The proposed policy has also been amended to reflect changes to the structure of the Trading Standards Service specifically staff titles and the designated named officers.</p> <p>The amendments reflect the judicial review conditions introduced by the Protection of Freedoms Act 2012 namely that a Justice of the Peace is satisfied that individual applications are legal, necessary and proportionate.</p> <p>The RIPA Corporate Policy and Protocol last received approval from Cabinet on 3rd November 2009</p> <p>Under the Human Rights Act 1998 (HRA) there is a duty on the Council to act in a way that is compatible with the individual's rights and failure to do so may enable a person to seek damages against the Council or to use our failure as a defence in any proceedings that we may bring against them.</p> <p>To be able to justify any interference with the right to respect for an individual's privacy the Council needs to demonstrate that any action is not only necessary for the prevention or detection of crime, but is also:</p> <ul style="list-style-type: none"> • lawful • necessary for the purposes of the investigation and • proportionate to what we want to achieve |
| <p>Who is affected by the proposals outlined above?</p> | <p>The policy amendment has no significant implications for</p> <ul style="list-style-type: none"> • Service users, their carers or families. • Council staff. • External organisations we commission to deliver services on behalf of the Council or in partnership with it. |

EQUALITY IMPACT ASSESSMENT

6. Sources of information

| Engagement carried out |
|---|
| <p>A report on the use of the Regulation of Investigatory Powers Act 2000 including the proposed changes went before the Communities Select Committee in July 2013</p> <p>The RIPA Corporate Policy and Protocol last received approval from Cabinet on 3rd November 2009</p> <p>Engagement and scrutiny will be a continuing process.</p> <p>Once introduced all services will be made aware of the policy and protocol amendments.</p> <p>An annual report on the use of RIPA is produced for consideration by the Communities Select Committee and the Head of Legal Services</p> <p>Quarterly updates on the use of RIPA are produced for the Cabinet Member for Community Safety.</p> |
| Data used |
| N/A |

7. Impact of the new/amended policy, service or function

The proposed amendments to this policy and protocol will not impact on residents or staff with protected characteristics, neither will it positively or negatively influence:

- equal opportunities;
- discrimination; or
- foster good relations between people that share protected characteristics and those that do not.

The amendment is procedural rather than operational in nature

The potential impact on the Public Sector Equality Duty is therefore negligible.

EQUALITY IMPACT ASSESSMENT

7a. Impact of the proposals on residents and service users with protected characteristics

| Protected characteristic ² | Potential positive impacts | Potential negative impacts | Evidence |
|---------------------------------------|--|--|---|
| Age | No significant implications arising from this report | No significant implications arising from this report | <p>The amendment to the RIPA corporate policy and protocol is procedural in nature and has no significant implications for</p> <ul style="list-style-type: none"> • Service users, their carers or families. • Council staff. • External organisations we commission to deliver services on behalf of the Council or in partnership with it. |
| Disability | No significant implications arising from this report | No significant implications arising from this report | |
| Gender reassignment | No significant implications arising from this report | No significant implications arising from this report | |
| Pregnancy and maternity | No significant implications arising from this report | No significant implications arising from this report | |
| Race | No significant implications arising from this report | No significant implications arising from this report | |
| Religion and belief | No significant implications arising from this report | No significant implications arising from this report | |
| Sex | No significant implications arising from this report | No significant implications arising from this report | |
| Sexual orientation | No significant implications arising from this report | No significant implications arising from this report | |

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² More information on the definitions of these groups can be found [here](#).

EQUALITY IMPACT ASSESSMENT

| | | | |
|--|--|--|--|
| Marriage and civil partnerships | No significant implications arising from this report | No significant implications arising from this report | |
| Carers³ | No significant implications arising from this report | No significant implications arising from this report | |

7b. Impact of the proposals on staff with protected characteristics

| Protected characteristic | Potential positive impacts | Potential negative impacts | Evidence |
|--------------------------------|--|--|----------|
| Age | No significant implications arising from this report | No significant implications arising from this report | |
| Disability | No significant implications arising from this report | No significant implications arising from this report | |
| Gender reassignment | No significant implications arising from this report | No significant implications arising from this report | |
| Pregnancy and maternity | No significant implications arising from this report | No significant implications arising from this report | |
| Race | No significant implications arising from this report | No significant implications arising from this report | |
| Religion and belief | No significant implications arising from this report | No significant implications arising from this report | |
| Sex | No significant implications arising from this report | No significant implications arising from this report | |

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³ Carers are not a protected characteristic under the Public Sector Equality Duty, however we need to consider the potential impact on this group to ensure that there is no associative discrimination (i.e. discrimination against them because they are associated with people with protected characteristics). The definition of carers developed by Carers UK is that 'carers look after family, partners or friends in need of help because they are ill, frail or have a disability. The care they provide is unpaid. This includes adults looking after other adults, parent carers looking after disabled children and young carers under 18 years of age.'

EQUALITY IMPACT ASSESSMENT

| | | | |
|--|--|--|--|
| Sexual orientation | No significant implications arising from this report | No significant implications arising from this report | |
| Marriage and civil partnerships | No significant implications arising from this report | No significant implications arising from this report | |
| Carers | No significant implications arising from this report | No significant implications arising from this report | |

EQUALITY IMPACT ASSESSMENT

8. Amendments to the proposals

N/A

| Change | Reason for change |
|--------|-------------------|
| | |
| | |
| | |

9

9. Action plan

N/A

| Potential impact (positive or negative) | Action needed to maximise positive impact or mitigate negative impact | By when | Owner |
|---|---|---------|-------|
| | | | |
| | | | |
| | | | |

10. Potential negative impacts that cannot be mitigated

N/A

| Potential negative impact | Protected characteristic(s) that could be affected |
|---------------------------|--|
| | |
| | |

11. Summary of key impacts and actions

| | |
|--|--|
| Information and engagement underpinning equalities analysis | <p>A report on the use of the Regulation of Investigatory Powers Act 2000 including the proposed changes went before the Communities Select Committee in July 2013</p> <p>The RIPA Corporate Policy and Protocol last received approval from Cabinet on 3rd November 2009</p> |
|--|--|

EQUALITY IMPACT ASSESSMENT

9

| | |
|--|--|
| | <p>Engagement and scrutiny will be a continuing process.</p> <p>Once introduced all services will be made aware of the policy and protocol amendments.</p> <p>An annual report on the use of RIPA is produced for consideration by the Communities Select Committee and the Head of Legal Services</p> <p>Quarterly updates on the use of RIPA are produced for the Cabinet Member for Community Safety.</p> |
| Key impacts (positive and/or negative) on people with protected characteristics | No significant implications arising from this report |
| Changes you have made to the proposal as a result of the EIA | N/A |
| Key mitigating actions planned to address any outstanding negative impacts | N/A |
| Potential negative impacts that cannot be mitigated | N/A |

SURREY COUNTY COUNCIL**CABINET****DATE: 26 NOVEMBER 2013****REPORT OF: MR DAVID HODGE, LEADER OF THE COUNCIL****LEAD OFFICER: SHEILA LITTLE, CHIEF FINANCE OFFICER AND DEPUTY DIRECTOR FOR BUSINESS SERVICES****SUBJECT: BUDGET MONITORING REPORT FOR OCTOBER 2013****SUMMARY OF ISSUE:**

This report presents the council's financial position at the end of period 7 – October of the 2013/14 financial year, with particular focus on the year end revenue and capital budgets forecasts and the achievement of efficiency targets.

Please note that Annex 1 to this report will be circulated separately prior to the Cabinet meeting.

RECOMMENDATIONS:

The final recommendations are to follow with the annex 1.

REASON FOR RECOMMENDATIONS:

To comply with the agreed strategy of providing a monthly budget monitoring report to Cabinet for approval and action as necessary.

DETAILS:

1. The Council's 2013/14 financial year commenced on 1 April 2013. This is the fifth budget monitoring report of 2013/14. The budget monitoring reports for this financial year have a greater focus on material and significant issues, especially the tracking of the efficiency and reduction targets within the Medium Term Financial Plan. The reports also have a greater emphasis on proposed actions to be taken to resolve any issues.
2. The Council has implemented a risk based approach to budget monitoring across all directorates and services. The risk based approach is to ensure we focus resources on monitoring those higher risk budgets due to their value, volatility or reputational impact.
3. There is a set of criteria to evaluate all budgets into high, medium and low risk. The criteria cover:
 - the size of a particular budget within the overall Council's budget hierarchy (the range is under £2m to over £10m);
 - budget complexity relates to the type of activities and data being monitored (the criterion is about the percentage of the budget spent on staffing or fixed contracts - the greater the percentage the lower the complexity);

- volatility is the relative rate at which either actual spend or projected spend move up and down (volatility risk is considered high if either the current year's projected variance exceeds the previous year's outturn variance, or the projected variance has been greater than 10% on four or more occasions during this year)
 - political sensitivity is about understanding how politically important the budget is and whether it has an impact on the Council's reputation locally or nationally (the greater the sensitivity the higher the risk).
4. High risk areas report monthly, whereas low risk services areas report on an exception basis. This will be if the year to date budget and actual spend vary by more than 10%, or £50,000, whichever is lower.
 5. Annex 1 to this report sets out the Council's revenue budget forecast year end outturn as at the end of October 2013. The forecast is based upon current year to date income and expenditure as well as projections using information available to the end of the month.
 6. The report provides explanations for significant variations from the budget, with a focus on staffing and efficiency targets. As a guide, a forecast year end variance of greater than £1m is material and requires a commentary. For some services £1m may be too large or not reflect the service's political significance, so any variance over 2.5% may also be material.
 7. Also, Annex 1 to this report updates Cabinet on the Council's capital budget.
 8. Appendix 1 provides details of the directorate efficiencies and revenue and capital budget movements.

Consultation:

9. All Cabinet Members will have consulted their relevant Strategic Director on the financial positions of their portfolios.

Risk management and implications:

10. Risk implications are stated throughout the report and each Strategic Director has updated their strategic and or service Risk Registers accordingly. In addition, the Leadership risk register continues to reflect the increasing uncertainty of future funding likely to be allocated to the Council.

Financial and value for money implications

11. The report considers financial and value for money implications throughout and future budget monitoring reports will continue this focus. The Council continues to have a strong focus on its key objective of providing excellent value for money.

Section 151 Officer commentary

12. The Section 151 Officer confirms that the financial information presented in this report is consistent with the council's general accounting ledger and that

forecasts have been based on reasonable assumptions, taking into account all material, financial and business issues and risks..

Legal implications – Monitoring Officer

13. There are no legal issues and risks.

Equalities and Diversity

14. Any impacts of the budget monitoring actions will be evaluated by the individual services as they implement the management actions necessary.

Climate change/carbon emissions implications

15. The County Council attaches great importance to being environmentally aware and wishes to show leadership in cutting carbon emissions and tackling climate change.
16. Any impacts on climate change and carbon emissions to achieve the Council's aim will be considered by the relevant service affected as they implement any actions agreed.

WHAT HAPPENS NEXT:

The relevant adjustments from the recommendations will be made to the Council's accounts.

Contact Officer:

Sheila Little, Chief Finance Officer and Deputy Director for Business Services
020 8541 7012

Consulted:

Cabinet / Corporate Leadership Team

Annexes:

Annex 1 – Revenue budget, staffing costs, efficiencies and capital programme summary.

Appendix 1 – Directorate financial information (revenue and efficiencies) and revenue and capital budget movements.

Sources/background papers:

None

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SURREY COUNTY COUNCIL**CABINET****DATE: 26 NOVEMBER 2013****REPORT OF: MR MEL FEW, CABINET MEMBER FOR ADULT SOCIAL CARE****LEAD OFFICER: SARAH MITCHELL, STRATEGIC DIRECTOR OF ADULT SOCIAL CARE****SUBJECT: SURREY INTEGRATED COMMUNITY EQUIPMENT SERVICE (ICES)****SUMMARY OF ISSUE:**

1. Surrey County Council with Surrey NHS Clinical Commissioning Groups (CCGs) provided approximately 28,000 people in Surrey last year with items of equipment to assist them to live as independently as they would wish, either because they are living with a long term condition or are recovering from illness or accident. The provision of equipment is a statutory service. The service is called ICES (Integrated Community Equipment Service). It is joint funded with the Surrey CCGs. Strategically critical, it is a key element in enabling people to live in their own homes, and in assisting people in the transition from hospital to home following treatment.
2. Following a robust tender process, the current contract for ICES was awarded to Millbrook Healthcare to begin 1 April 2009 on the basis of a five year term until 31 March 2014, with options for two additional years.
3. The service provided by Millbrook Healthcare for the initial five years has been to a very high standard: the number of people receiving a service annually has increased by 12% from 25,000 in 2009/10 to 28,000 in 2012/13; the proportion of equipment deliveries completed to timescale is 99%; the number of complaints is low, 0.3-0.4% of 2,800 activities each month.
4. The service is joint funded with the Surrey CCGs who have agreed to an initial one year extension.
5. Cabinet are asked to agree to the optional extension period of up to 2 years: one year until 31 March 2015 with joint funding confirmed by the Surrey CCGs; with the option to extend for a final year until 31 March 2016 subject to continued best value, acceptable performance by the contractor, and confirmed funding from the Surrey CCGs.

RECOMMENDATIONS:

6. It is recommended that:
 - The current five-year contract for the Integrated Community Equipment Service which commenced April 2009 and expires 31 March 2014 with Millbrook Healthcare is extended for a further one year period until 31 March 2015, with the option to extend for a final one year period until 31

March 2016 as set out in the original Official Journal of the European Union (OJEU) notice and in the current contract with Millbrook Healthcare. A final year extension would be dependent upon funding agreement with the Surrey CCGs.

REASON FOR RECOMMENDATIONS:

7. Millbrook Healthcare has consistently provided very high levels of service for the duration of this contract and has worked proactively to look for innovative solutions to improving service delivery and financial savings.
8. The service provided by Millbrook Healthcare for the duration of the current contract has been to a very high standard, with an open book approach to the development of innovative solutions, improved service delivery and financial savings. Over 99% of all deliveries of equipment are completed within the specified time period; stock control for the peripheral stores in the major acute hospitals is excellent; joint initiatives are regularly undertaken, for example in identifying equipment for collection and recycling, and in running training programmes for the 1200 prescribers across health and social care.
9. In order to respond to increasing demand and reducing resources, a whole systems review of all types of equipment and building adaptations is being undertaken. ICES forms a central core of this agenda, and potentially has links to many other equipment related services. An extension of 1 + 1 year of ICES will enable the review to be completed, and service specifications developed for a more integrated and personalised service.
10. An extension will allow a review of the potential for future collaboration with neighbouring authorities, who are planning to tender during 2014/15.
11. Rejection of a contract extension for 2014/15 would require an immediate re-tender for a steady-state service. Due to the wider Whole Systems review, an ICES re-tender would only be for a short-term contract, which would be seen as unattractive to the marketplace, with large set-up costs for the supplier.
12. A contract extension would bear no additional cost to Surrey County Council in year 1 above that already budgeted. The Medium Term Financial makes allowances for the cost of ICES for each of the years of the proposed extension. ICES is funded jointly with the Surrey NHS CCGs, on a 50:50 basis within a section 75 pooled fund agreement. Surrey CCGs have agreed to a potential one year extension, but are not yet in a position to consider the possibility of a second year.

CONSULTATION:

13. Surrey CCGs have been consulted through their nominated lead, are in full support of the recommended year 1 extension request and, have allowed for the expected budgetary requirements.

They have not as yet considered the possibility of a second year extension, although are aware of their contracted commitment.

14. Surrey County Council's Adult Social Care Finance team have been consulted and confirm that the budget for the 1+1 extension period is

allocated within the Medium Term Financial Plan. Although, the second year commitment would be dependent on any position taken by the CCGs.

15. Surrey County Council's Legal services have been consulted and confirmed the need to present this request for an extension to Cabinet.
16. The proposed contract extension of 1 year from 1 April 2014 with an option of a final year extension has been supported by the procurement review group.

RISK MANAGEMENT AND IMPLICATIONS:

17. Millbrook Healthcare is a subsidiary of Millbrook Industries, which is a family run business. Other subsidiaries of Millbrook Industries include Millbrook Beds Limited, which is a furniture manufacturing business. The Surrey County Council Finance Team report that Millbrook Industries is in a good financial position with excellent credit scores having good liquidity, reasonable gearing, is profitable and suitable for this contract.
18. There is a significant risk to service provision if this request for an extension is not granted, with associated reputational damage to Surrey County Council. There is no guarantee that a suitable replacement for the current contractor could offer a financially viable service equal to the current provision, especially as there are a restricted number of specialist contractors currently in this sector.

Financial and Value for Money Implications

19. The annual budget for the ICES contract is split equally between Surrey County Council and Surrey CCGs, and is confirmed for the first year extension. The second year commitment by Surrey County Council would be dependent on the position taken by the CCGs.

Section 151 Officer Commentary

20. The S151 Officer confirms that material, financial and business issues and risks have been considered in this report, and the contract extension is judged the best way forward whilst undertaking a more thoroughgoing review of arrangements in association with the Surrey's CCGs.

Legal Implications – Monitoring Officer

21. Surrey County Council Legal Services have been consulted and are supportive of the recommendation in this Cabinet Report.

Equalities and Diversity

22. There are no equalities implications as a result of this contract extension. A full Equality Impact Assessment (EIA) will be completed as part of the tender process for any subsequent contact.

WHAT HAPPENS NEXT:

23. If Cabinet agree that the current contract can be extended for an additional year with an option of a final subsequent year then this will be confirmed with Millbrook Healthcare.

Contact Officer:

| | | |
|--------------|--|--------------|
| Colin Rowett | Senior Manager Commissioning, Adult Social Care | 01483 517856 |
|--------------|--|--------------|

Consulted:

| | | |
|---------------------------|---|---------------|
| Councillor Denise Le Gall | Cabinet Member for Business Services | |
| Sue Robertson | Associate Director, NHS North-West Surrey Clinical Commissioning Group Consulted in her capacity as equipment lead for all Surrey CCGs | 01372 201564 |
| Paul Carey-Kent | Strategic Finance Manager, Adult Social Care | 020 8541 8536 |
| David Kelly | Corporate Group Legal Services Manager, Legal and Democratic Services | 020 8541 7205 |
| Laura Langstaff | Head of Procurement | 020 8541 8597 |
| Sarah Mitchell | Strategic Director of Adult Social Care & Fire Service | 020 8541 9320 |
| Anne Butler | Assistant Director for Commissioning | 01483 518442 |

Annexes:

Part 2: Budget Implications (item 14)

Sources/background papers:

None

SURREY COUNTY COUNCIL

CABINET

DATE: 26 NOVEMBER 2013

REPORT OF: N/A

LEAD OFFICER: ANN CHARLTON, HEAD OF LEGAL AND DEMOCRATIC SERVICES

SUBJECT: LEADER/DEPUTY LEADER/CABINET MEMBER DECISIONS TAKEN SINCE THE LAST CABINET MEETING

**SUMMARY OF ISSUE:**

To note any delegated decisions taken by the Leader, Deputy Leader and Cabinet Members since the last meeting of the Cabinet.

RECOMMENDATIONS:

It is recommended that the Cabinet note the decisions taken by the Leader, Deputy Leader and Cabinet Members since the last meeting as set out in Annex 1.

REASON FOR RECOMMENDATIONS:

To inform the Cabinet of decisions taken by Members under delegated authority.

DETAILS:

1. The Leader has delegated responsibility for certain executive functions to the Deputy Leader and individual Cabinet Members, and reserved some functions to himself. These are set out in Table 2 in the Council's Scheme of Delegation.
2. Delegated decisions are scheduled to be taken on a monthly basis and will be reported to the next available Cabinet meeting for information.
3. **Annex 1** lists the details of decisions taken by Cabinet Members by the time of the publication of the agenda for this meeting.

Contact Officer:

Anne Gowing, Cabinet Committee Manager, 020 8541 9938

Annexes:

Annex 1 – List of Cabinet Member Decisions

Sources/background papers:

- Agenda and decision sheets from the Cabinet Member, Deputy Leader and Leader meetings (available on the Council's website)

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CABINET MEMBER DECISIONS

OCTOBER 2013

(i) DISPOSAL OF PERRY HILL LODGE, WORPLESDON

Details of decision

1. The disposal of Perry Hill Lodge, Worplesdon, as set out in paragraph 1 of the submitted report, be approved, subject to exchange of papers taking place within 21 days, with completion taking place within a further 28 days.
2. Should completion not take place within the required timeframe, the Acquisition & Disposal Manager, in consultation with the Cabinet Member for Assets and Regeneration Programmes, be authorised to pursue completion with other bidders on the basis of the same timeline as set out above.

Reasons for decision

To expedite the sale of a property no longer required for service reasons, to reduce the cost of managing an empty property and to maximise potential receipts without additional risk.

(Decision of Cabinet Member for Assets and Regeneration Programmes – 12 November 2013)

(ii) TO DETERMINE A PROPOSAL TO EXPAND STAMFORD GREEN PRIMARY SCHOOL

Details of decision

1. That the school be permanently enlarged by 1 form of entry (from 2 FE to 3 FE).
2. That this expansion be effective from 1 September 2015.
3. That the expansion be managed incrementally, starting with an additional reception class in 2015 and building up a year at a time until the school is 3FE in every year group by 2020.
4. That an associated building programme be commissioned to provide additional accommodation to meet the basic need for more classrooms to support the expansion.

Reasons for decision

Additional school places are required urgently in the north west Epsom planning area. Stamford Green Primary is a popular and successful school which serves this area and consistently delivers a high quality education. It was rated good (Grade 2) by OFSTED, at its last full inspection (March 2010) and this judgement was confirmed by an Interim Assessment made in February 2013. The provision of additional

places at Stamford Green therefore meets the government's policy position to expand successful schools in order to meet parental preferences.

(Decision of Cabinet Member for Schools and Learning – 13 November 2013)

(iii) ADMISSION ARRANGEMENTS FOR COMMUNITY AND VOLUNTARY CONTROLLED SCHOOLS FOR SEPTEMBER 2015

Details of decision

That the Principal Manager Admissions and Transport (Strategy) be authorised to go out to statutory consultation on the proposed changes to admission arrangements for community and voluntary controlled schools for September 2015 and the coordinated schemes.

Reasons for decision

There is a statutory requirement to consult on admission arrangements every seven years, or sooner if there is a proposal to change any part of a school's admission arrangements. The Local Authority is proposing changes to the admission arrangements for some community and voluntary controlled schools and as such there is a statutory duty to consult on these changes.

(Decision of Cabinet Member for Schools and Learning – 13 November 2013)

(iv) TO DETERMINE A PROPOSAL TO PUBLISH NOTICES TO EXPAND ASHFORD PARK PRIMARY SCHOOL

Details of decision

1. That the publication of Statutory Notices be approved, to the effect that:
 - Ashford Park Primary School be enlarged by 1 form of entry (from 2 FE to 3 FE) on 1 September 2015.
 - The school roll would increase by one form each year until September 2021 when its capacity will be 630 pupils.
2. An associated building programme goes ahead in a single phase to provide appropriate new classrooms and some improvements to ancillary accommodation.

Reasons for decision

Based on the most recent forecast of pupil numbers, which projects the requirement for school places up to 2020 and beyond, one additional form of entry in this planning area would meet the basic need. Expansion of an existing school is the logical and most financially prudent response to this issue.

Ashford Park is currently the most suitable primary school for expansion in the area for the number of reasons set out in the submitted report.

(Decision of Cabinet Member for Schools and Learning – 13 November 2013)

(v) PROPOSED EXPANSION OF THE HYTHE PRIMARY SCHOOL FROM 1 TO 2 FORMS OF ENTRY

Details of decision

That statutory notices be published, indicating the Local Authority's intention to expand the school from one to two form entry.

Reasons for decision

The Local Authority has a statutory duty to ensure that there are sufficient school places in Surrey. Expansions have been recently commissioned at a number of primary schools in Runnymede including Darley Dene Infant School, Trumps Green Infant School, St Ann's Heath Junior School and Thorpe Church of England Infant School. Even with these additional places, most primary schools in Runnymede are expected to be full and to continue to be full in the future and more schools places are needed. Pupil mapping data indicates that there are large number of pupils living within the Egham and Hythe area and that further reception places will be required to keep up with demand.

(Decision of Cabinet Member for Schools and Learning – 13 November 2013)

(vi) COMMUNITY IMPROVEMENTS FUND – PANEL RECOMMENDATIONS

Details of decision

That the proposed grant funding of £17,000 to The Woodland Trust from the Community Improvements Fund Budget, as set out in Annex 3 of the submitted report, be approved.

Reasons for decision

Approval of the proposed grant funding will enable the Community Partnerships Team to progress with facilitating the payments relating to the Community Improvements Fund.

(Decision of Leader of the Council – 14 November 2013)

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