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County Hall
Rhadyr
Usk
NP15 1GA

Friday, 24 November 2023

Notice of Meeting

Governance and Audit Committee

Monday, 4th December, 2023 at 2.00 pm,
The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA

Please note that a 30 minute pre-meeting will take place at 1.30pm for Committee Members and Audit Officers

AGENDA

Item No	Item	Pages
1.	Apologies for Absence.	
2.	Declarations of Interest.	
3.	Public Open Forum. Governance and Audit Committee Public Open Forum Guidance Our Governance and Audit Committee meetings are live streamed and a link to the live stream will be available on the meeting page of the Monmouthshire County Council website If you would like to share your thoughts on any proposals being discussed by Governance and Audit Committee, you can submit your representation via this form Please share your views by uploading a video or audio file (maximum of 4 minutes) or; Please submit a written representation (via Microsoft Word, maximum of 500 words) You will need to register for a My Monmouthshire account in order to submit the representation or use your log in, if you have registered previously. The deadline for submitting representations to the Council is 5pm three clear working days in advance of the meeting.	

If representations received exceed 30 minutes, a selection of these based on theme will be shared at the Governance and Audit Committee meeting. All representations received will be made available to councillors prior to the meeting.

The amount of time afforded to each member of the public to speak is at the chair's discretion, but to enable us to accommodate multiple speakers, we ask that contributions be no longer than 3 minutes.

If you would like to attend one of our meetings to speak under the Public Open Forum at the meeting, you will need to give three working days' notice by contacting wendybarnard3@monmouthshire.gov.uk

If you would like to suggest future topics for scrutiny by Governance and Audit Committee, please do so by emailing wendybarnard3@monmouthshire.gov.uk

4.	To note the Action List from the previous meeting.	1 - 2
5.	23/24 Q2 Treasury report.	3 - 24
6.	Effectiveness of Strategic Risk Management Framework.	25 - 40
7.	The Ombudsmans's Annual Letter - 2022/23.	41 - 54
8.	Regulation of Investigatory Powers Act 2000 (RIPA).	55 - 88
9.	Governance and Audit Committee Forward Work Plan.	89 - 94
10.	To approve the minutes of the previous meeting held on 19th October 2023.	95 - 98
11.	Date of the Next Meeting: 11th January 2024.	

**Paul Matthews
Chief Executive**

MONMOUTHSHIRE COUNTY COUNCIL
CYNGOR SIR FYNWY

THE CONSTITUTION OF THE COMMITTEE IS AS FOLLOWS:

Andrew Blackmore

Colin Prosser

Martin Veale

Rhodri Guest

County Councillor Sara Burch

*Cantref; Labour and Co-Operative
Party*

County Councillor John Crook

*Magor East Welsh Labour/Llafur Cymru
with Undy;*

County Councillor Tony Easson

Dewstow; Welsh Labour/Llafur Cymru

County Councillor David Jones

Crucorney; Independent Group

County Councillor Malcolm Lane

Mardy; Welsh Conservative Party

County Councillor Phil Murphy

Caerwent; Welsh Conservative Party

County Councillor Peter Strong

Rogiet; Welsh Labour/Llafur Cymru

County Councillor Ann Webb

St Arvans; Welsh Conservative Party

Public Information

Access to paper copies of agendas and reports

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Watch this meeting online

This meeting can be viewed online either live or following the meeting by visiting www.monmouthshire.gov.uk or by visiting our Youtube page by searching MonmouthshireCC.

Welsh Language

The Council welcomes contributions from members of the public through the medium of Welsh or English. We respectfully ask that you provide us with 5 days notice prior to the meeting should you wish to speak in Welsh so we can accommodate your needs.

Aims and Values of Monmouthshire County Council

Our purpose

- to become a zero-carbon county, supporting well-being, health and dignity for everyone at every stage of life.

Objectives we are working towards

- Fair place to live where the effects of inequality and poverty have been reduced;
- Green place to live and work with reduced carbon emissions and making a positive contribution to addressing the climate and nature emergency;
- Thriving and ambitious place, where there are vibrant town centres and where businesses can grow and develop
- Safe place to live where people have a home where they feel secure in;
- Connected place where people feel part of a community and are valued;
- Learning place where everybody has the opportunity to reach their potential

Our Values

Openness. We are open and honest. People have the chance to get involved in decisions that affect them, tell us what matters and do things for themselves/their communities. If we cannot do something to help, we'll say so; if it will take a while to get the answer we'll explain why; if we can't answer immediately we'll try to connect you to the people who can help – building trust and engagement is a key foundation.

Fairness. We provide fair chances, to help people and communities thrive. If something does not seem fair, we will listen and help explain why. We will always try to treat everyone fairly and consistently. We cannot always make everyone happy, but will commit to listening and explaining why we did what we did.

Flexibility. We will continue to change and be flexible to enable delivery of the most effective and efficient services. This means a genuine commitment to working with everyone to embrace new ways of working.

Teamwork. We will work with you and our partners to support and inspire everyone to get involved so we can achieve great things together. We don't see ourselves as the 'fixers' or problem-solvers, but we will make the best of the ideas, assets and resources available to make sure we do the things that most positively impact our people and places.

Kindness: We will show kindness to all those we work with putting the importance of relationships and the connections we have with one another at the heart of all interactions.

Monmouthshire Governance & Audit Committee Question/Consideration Guide

Role of the Pre-meeting

1. Why is the Committee considering this agenda item? (relevance and materiality)
 2. What is the Committee's role and what outcome do Members want to achieve?
 3. Is there sufficient information to achieve this? If not, who could provide this?
 4. What are the confidential views of the auditors on relevant matters?
- Discuss members' views/ key concerns with the papers and agree priorities

Potential Questions/Considerations for the Meeting

Internal Audit (IA)

1. What is the IA functional model and is it fit for purpose?
2. Does IA have sufficient authority and influence across the Authority?
3. Is IA suitably resourced and empowered? Is the annual IA plan appropriate? On what do we make this judgement?
4. Do Chief Officers demonstrably accept and champion the role of IA? How do they do this?
5. Are IA findings acted upon energetically by Officers? How is this demonstrated? Do we effectively challenge and hold officers to account for implementing IA findings?
6. How can we be confident that the internal control environment remains appropriate?
7. Do we have confidence in overall IA effectiveness? On what do we base this?
8. Is the annual/ periodic IA opinion plausible?
9. Do we have sufficient visibility over the work, output and effectiveness of allied IA teams, e.g. TCBC?

Governance

1. Is there a codified and cohesive description of MCC's overall governance arrangements? Is it fit for purpose?
2. Is there clarity over the governance of the various oversight and scrutiny arrangements for (and effectiveness

External Audit (EA)

1. Is the EA team (financial and performance) credible?
2. Are we confident over the arrangements for developing the EA annual work plan/ timetable and is it aligned to our understanding of key risks?
3. Do Chief/ senior officers engage appropriately with EA? How is this demonstrated?
4. Is there a constructive relationship between IA, EA (and other inspectorates)? How is this evidenced?
5. Have relevant officers demonstrably considered the results/ conclusions of EA national and specific reports?
6. Do we have good visibility over emerging issues identified by EA?
7. In respect of ISA260 and equivalent EA financial reports, do officers clearly demonstrate understanding of issues raised and have a credible plan to resolve issues for next financial year?
8. Does EA have confidence in MCC's Officers and governance arrangements?

Budgeting/ Financial Risk/ Reserves

1. Is there a clearly defined, governed and checkpointed process and timetable for developing the Authority's budget?
2. Is there an appropriate suite of financial risk related policies? Are they suitable?
3. Are the key financial/ operational

<p>of) material partnerships and collaborations?</p> <ol style="list-style-type: none"> 3. Is there clarity over the apportionment of responsibilities and decision making authorities? 4. How are governance/ control breaches identified and reported? 5. Are we confident that the arrangements for material expenditure (tendering, contracting and capital procurement) are robust? 6. Do we have confidence in whistleblowing (and similar arrangements) for raising concerns? <p><u>Corporate Risks</u></p> <ol style="list-style-type: none"> 1. Have key accountabilities for the identification, assessment, monitoring and management of risks been adequately defined and implemented? 2. Has the approach to risk management been designed and implemented effectively? 3. How can the Committee be confident that the Corporate Risk Register captures all significant risks facing the Authority? 4. Are the risk mitigation action plans credible and sufficient so as to achieve the desired outcomes? 	<p>assumptions understood, credible, documented and stress tested?</p> <ol style="list-style-type: none"> 4. Does the Finance function have suitable capabilities and capacity to manage financial risk/ meet statutory requirements and obligations to the Council? 5. Do we have confidence that the budgetary process is likely to produce a plausible budget/ MTFP? 6. Are there suitable arrangements in place to manage and report on overall financial performance? <p><u>Financial Statements/ Misstatement Risk</u></p> <ol style="list-style-type: none"> 1. Is there a shared understanding as to the purpose of the Committee in reviewing draft financial statements? <ol style="list-style-type: none"> a. Are the Notes to the Accounts reasonable? b. Are the narrative reports, including the Annual Governance Statement reasonable and accord with the committee's view? 2. Are we comfortable with EA's work and audit opinion?
<p>Questions for the Committee to conclude...</p>	
<p>Do we have the necessary information to form conclusions/make recommendations/ escalate matters to the executive, council, relevant scrutiny committee?</p> <p>Do we need to follow up? If so, how?</p>	

**Governance and Audit Committee Action List
19th October 2023**

Action	Subject/ Meeting	Officer	Outcome	Due date	Action Status	Recommended to close Action Yes/No
1	Action List: Statement of Accounts 2021/22	Jon Davies	Finance Team capacity – verbal update on progress in filling vacancies and further information on which items were being de-prioritised	4 th December 2023	OPEN	No
2	Action List: Audit Wales Work programme: Council progress	Matthew Gatehouse/ Richard Jones/Hanna h Carter	People Strategy and Asset Management Plan to be reported on separately in future.	11 th January 2024	OPEN	11 th January 2024
3	Action List: Whole authority Complaints report	Annette Evans/ Matt Gatehouse	A weighting system to be considered for future reports.	Next scheduled Report	OPEN	No
4	Action List: Review of Strategic Risk Register	Matthew Gatehouse/ Richard Jones/ Hannah Carter/ Chair	Strategic Risk Register: refine the structure and contents of this paper so that it is more fully aligned to the responsibilities of the Committee	4 th December 2023	OPEN	4 th December 2023
5	Freedom of Information, Data Protection and Data Subject	Kath Evans/ Sian Hayward	a) Information was requested on governance arrangement for the policies for these areas.as the Committee has not received any policies for review and endorsement.		a) OPEN	No

	Access Requests		b) Deputy Chief Executive to consider which corporate risk control policies (extending beyond IT and data protection) that the Committee should periodically review and recommend for approval across the authority.	4 th December 2023	b) OPEN	No
6	Draft Operational Plan	Peter Davies/ Jan Furtek	a) Committee requested to be consulted on proposed delivery models b) Update on capacity	a) 4th December 2023 b) 4th December 2023	a) OPEN b) OPEN	a) No b) No
7	Counter Fraud, Corruption and Bribery Policy	Peter Davies/ Jan Furtek	a) Deputy Chief Executive to raise with the Head of HR, and report back accordingly: i) How concerns are raised under the Whistle Blowing Policy and whether consideration will be given to receipt of concerns at independent board or other appropriate level, also: ii) Taking into account the terms of reference of this committee, how best to report on instances of whistleblowing. b) Chief Internal Auditor to add periodic updates to the Forward Work programme	a) 4th December 2023 b) 4th December 2023	a) OPEN b) OPEN	a) No b) No
8	Audit Wales Work Programme: Council Progress		Deputy Chief Executive to provide the Committee an update on work in progress on the in-year deficit, and budget development in terms of the robustness of the process.	4 th December 2023	OPEN	No



REPORT

SUBJECT: TREASURY MANAGEMENT ACTIVITY UPDATE - QUARTER 2 2023/24

MEETING: Governance & Audit Committee

DATE: 4th December 2023

DIVISIONS/WARD AFFECTED: All

1. PURPOSE:

- 1.1. The Prudential Code and CIPFA treasury guidance require local authorities to produce annually a Treasury Management Strategy Statement and Prudential Indicators on their likely financing and investment activity, and to ensure that the appropriate governance function that oversees the treasury management activities of the Authority is kept informed of activity quarterly.
- 1.2. The Authority's treasury management strategy for 2023/24 was approved by Council on 9th March 2023. Over the second quarter of the year the Authority has continued to borrow and invest substantial sums of money and is therefore exposed to financial risks including the loss of invested funds and the revenue effect of changing interest rates. The successful identification, monitoring and control of risk remains central to the Authority's treasury management strategy.
- 1.3. This report represents the second update of treasury management activity during 2023/24 following the Quarter 1 report being considered by this Committee on the 27th of July 2023.

2. RECOMMENDATIONS:

That Governance & Audit committee review the treasury management activities and the performance achieved in the second quarter of 2023/24 as part of their delegated responsibility to provide scrutiny of treasury policy, strategy and activity on behalf of Council.

3. KEY ISSUES:

3.1. Key data metrics during the quarter:

Type	Metric	Start of Quarter	End of Quarter
External	Bank of England base rate	4.5%	5.25%
External	UK Consumer Prices Index	7.9%	6.7%
External	10-year UK gilt yield	4.39%	4.45%
Internal	Borrowing	180.8m	179.4m
Internal	Borrowing Average rate	3.24%	3.38%
Internal	Investments	25.0m	34.0m
Internal	Investment Average rate	4.54%	4.88%
Internal	Credit score/rating	AA- / 3.90	AA- 3.91

3.2. Key messages:

Treasury management activities undertaken during the quarter complied fully with the CIPFA code and the limits and indicators as set out in the Authority's approved Treasury Management Strategy.

A movement from Money Market Funds into Government investment products to reduce

overall “bail in” risk in light of the comparatively similar returns on both investments.

Cash balances remain resolutely high resulting in overall borrowing remaining fairly static whilst investment balances increased over the period.

£3.6m of Lender Option Borrower Option loans were called during the quarter. The Authority chose to repay these at nil cost.

A new Environmental, Social and Governance (ESG) specific investment product has been opened during the second quarter and will be prioritised for investment going forward.

4. **ECONOMIC SUMMARY**

- 4.1. During the second quarter of 2023/24 UK inflation remained stubbornly high over much the period compared to the US and euro zone, keeping expectations elevated of how much further the Bank of England (BoE) would hike rates compared to the regions. However, inflation data published in the latter part of the period undershot expectations, causing financial markets to reassess the peak in BoE Bank Rate. This was followed very soon after by the BoE deciding to keep Bank Rate on hold at 5.25% in September, against expectation for another 0.25% rise.
- 4.2. Shortly after the period ended, CPI inflation year on year to October was announced at 4.6%, a higher-than-expected fall from 6.7% in September. The sharp fall in the headline rate was flagged well in advance and CPI may ease more slowly from here, particularly with current levels of wage growth. The MPC is not likely to be in any hurry to cut Bank Rate, although we expect economic growth to slow more materially as time passes.

5. **BORROWING ACTIVITY DURING THE QUARTER:**

- 5.1. UK gilt yields have remained volatile, as in the first quarter since early April following signs that UK growth had been more resilient, inflation stickier than expected, and that the Bank of England saw persistently higher rates through 2023/24 as key to dampening domestic demand.
- 5.2. Gilt yields, and consequently PWLB borrowing rates, rose and broadly remained at elevated levels. On 30th September, the PWLB certainty rates for maturity loans were 5.26% for 10 year loans, 5.64% for 20-year loans and 5.43% for 50-year loans. Their equivalents on 30th June 2023 were 5.26%, 5.37% and 4.95% respectively.
- 5.3. In an environment of rising interest rates the authority has benefited from arranging forward starting short term loans. Short-term loans have been arranged up to ten months in advance at rates lower than those available at the start date and in some cases at rates lower than those available on the authorities' investments. As we are likely to have reached peak interest rate this strategy will no longer be viable
- 5.4. The authorities' borrowing position at the end of the second quarter can be seen below:

	30.6.23 Balance £m	30.6.23 Weighted Average Rate %	30.6.23 Weighted Average Maturity (years)	Balance Movement	30.9.23 Balance £m	30.9.23 Weighted Average Rate %	30.9.23 Weighted Average Maturity (years)
Public Works Loan Board	118.7	3.3	21.4	(2.8)	115.9	3.2	21.7
Banks (LOBO)	13.6	4.8	18.5	(3.6)	10.0	4.9	18.4
Welsh Gov Interest Free	5.5	0.0	3.3	(0.0)	5.5	0.0	3.0

Local authorities/Other	43.0	3.1	0.3	5.0	48.0	3.9	0.5
Total borrowing	180.8	3.2	15.6	(1.4)	179.4	3.4	15.2

5.5. The authorities total borrowing has remained fairly static over the second quarter. One lender exercised their option to call and increase the interest rate on a £3.6m Lender's Option Borrower's Option Loan from 4.6% to 6.12%. The authority chose to repay this loan at no extra cost, financing from the repayment through short term cashflows. Principal repayment of PWLB equal instalment of principal (EIP) loans has reduced the balance by a further £2.8m. This movement was offset with a new temporary loan of £5m.

6. **INVESTMENT ACTIVITY DURING THE QUARTER:**

6.1. During the second quarter, the authority's investment balances ranged from between £22.3m and £55.0m due to timing differences between income and expenditure. The movement in investments during the quarter was:

	30.6.23 Balance	Net Movement	30.9.23 Balance	30.9.23 Income Return	30.9.23 Weighted Average Maturity Days
	£m	£m	£m	%	
Banks & building societies (unsecured)	(0.5)	(1.5)	(2.0)	Average 4.64%	Up to 180 days
Government (incl. local authorities)	(3.0)	(21.5)	(24.5)		
Money Market Funds (MMFs)	(17.5)	14.0	(3.5)	6.11%	N/A
Multi asset income, Pooled funds	(4.0)	0.0	(4.0)		
Total investments	(25.0)	(9.0)	(34.0)		

6.2. UK Bank Rate increased by 0.75% over the quarter, from 4.5% at the end of June to 5.25% by the end of September. Short-dated cash rates rose commensurately, with 3-month rates rising to around 5.32% and 12-month rates to nearly 5.83%. The rates on DMADF deposits also rose, ranging between 5.17% and 5.24% by the end of September and Money Market Rates between 5.35% and 5.19%.

6.3. At the end of the first quarter the DMADF offered comparably higher returns and lower bail in risk compared to Money market funds. As such, during the second quarter the Authority moved a higher proportion of investments to the DMADF. The returns of each investment will be monitored over the third quarter.

6.4. £4m of the Authority's investments are invested in externally managed strategic pooled multi-asset and property funds where short-term security and liquidity are lesser considerations, and the objectives instead are regular revenue income and longer-term price stability. These funds generated £108k or an annualised average 6.11% income return, together with a £76k unrealised capital loss over the second quarter. Total unrealised capital losses since purchase stand at £506k.

7. **NON-TREASURY INVESTMENTS:**

7.1. The authority continues to hold £31.4m of non-financial asset investments and their forecast performance can be seen in the table below:

	Forecast Net (income) / loss @ Month 6 2023/24 £000's	Carrying Value 31.03.23 £000's	Net return 2023/24 %	Net return 2022/23 %
Oak Grove Solar Farm	(559)	5,485	10.19	13.44
Newport Leisure Park & service loan	(219)	19,756	1.11	0.01
Castlegate Business Park	216	6,159	(3.51)	(6.58)
Total	(562)	31,400	1.79	1.06

7.2. The investment at Newport Leisure park continues to provide a net income stream for the Authority, although this remains lower than the expected 2% return after borrowing until currently negotiated rent free periods end.

7.3. The investment in Castlegate is still providing a net negative ROI, however continued negotiations with interested parties should bring back a positive net return in 2024-25 following rent free periods. This continues to represent a significant improvement on the position since the anchor tenant vacated their space in Spring 2022.

7.4. One non-treasury investment was disposed of during the period, relating to the commercial loan with Broadway Partners Limited (BPL). Following an administration process, in September the administrators identified a buyer for BPL and a deal was concluded shortly after. On 27th of September all outstanding loan principal and interest due was repaid. The interest received over the life of the loan totalled £159k.

8. ESG:

8.1. A new ESG specific investment product has been opened during the second quarter of the year. This fund aims to provide security of capital and liquidity while also focusing on the performance of the underlying issuers on a range of environmental, social and governance metrics.

8.2. The authority's investment portfolio is reviewed against three ethical investment charters which are updated each quarter. Any funds which do not sign up to each of the three charters will be removed from the investment portfolio.

9. CONSULTEES

Cabinet Member - Resources

Deputy Chief Executive, (Section 151 officer)

Arlingclose Limited – External Treasury management advisors to Monmouthshire CC

10. BACKGROUND PAPERS

Appendix 1

Glossary of treasury terms

11. AUTHORS

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2023/24 Treasury Management update – Quarter 2 (as at 30th September 2023)

Section 1	External market conditions
Section 2	Movement in treasury balances during the quarter
Section 3	Borrowing activity during the quarter
Section 4	Investment Activity during the quarter
Section 5	Treasury budget performance
Section 6	Environmental, Social and Governance strategy update
Section 7	Non-treasury investments
Section 8	Compliance with prudential indicators and treasury limits
Section 9	Glossary of Treasury terms

1. **External market conditions**

- 1.1. Economic background: UK inflation remained stubbornly high over much the period compared to the US and euro zone, keeping expectations elevated of how much further the Bank of England (BoE) would hike rates compared to the regions. However, inflation data published in the latter part of the period undershot expectations, causing financial markets to reassess the peak in BoE Bank Rate. This was followed very soon after by the BoE deciding to keep Bank Rate on hold at 5.25% in September, against expectation for another 0.25% rise.
- 1.2. Economic growth in the UK remained relatively weak over the period. In calendar Q2 2023, the economy expanded by 0.4%, beating expectations of a 0.2% increase. However, monthly GDP data showed a 0.5% contraction in July, the largest fall to date in 2023 and worse than the 0.2% decline predicted which could be an indication the monetary tightening cycle is starting to cause recessionary or at the very least stagnating economic conditions.
- 1.3. July data showed the unemployment rate increased to 4.3% (3mth/year) while the employment rate rose to 75.5%. Pay growth was 8.5% for total pay (including bonuses) and 7.8% for regular pay, which for the latter was the highest recorded annual growth rate. Adjusting for inflation, pay growth in real terms were positive at 1.2% and 0.6% for total pay and regular pay respectively.
- 1.4. Inflation continued to fall from its peak as annual headline CPI declined to 6.7% in July 2023 from 6.8% in the previous month against expectations for a tick back up to 7.0%. The largest downward contribution came from food prices. The core rate also surprised on the downside, falling to 6.2% from 6.9% compared to predictions for it to only edge down to 6.8%.
- 1.5. The Bank of England's Monetary Policy Committee continued tightening monetary policy over most of the period, taking Bank Rate to 5.25% in August. Against expectations of a further hike in September, the Committee voted 5-4 to maintain Bank Rate at 5.25%. Each of the four dissenters were in favour of another 0.25% increase.
- 1.6. Financial market Bank Rate expectations moderated over the period as falling inflation and weakening data gave some indication that higher interest rates were working. Expectations fell from predicting a peak of over 6% in June to 5.5% just ahead of the September MPC meeting, and to then expecting 5.25% to be the peak by the end of the period.
- 1.7. Following the September MPC meeting, Arlingclose, the authority's treasury adviser, modestly revised its interest forecast to reflect the central view that 5.25% will now be the peak in Bank Rate. In the short term the risks are to the upside if inflation increases again, but over the remaining part of the time horizon the risks are to the downside from economic activity weakening more than expected.

- 1.8. The lagged effect of monetary policy together with the staggered fixed term mortgage maturities over the next 12-24 months means the full impact from Bank Rate rises are still yet to be felt by households. As such, while consumer confidence continued to improve over the period, the GfK measure hit -21 in September, it is likely this will reverse at some point. Higher rates will also impact business and according to S&P/CIPS survey data, the UK manufacturing and services sector contracted during the quarter with all measures scoring under 50, indicating contraction in the sectors.
- 1.9. The US Federal Reserve increased its key interest rate to 5.25-5.50% over the period, pausing in September following a 0.25% rise the month before, and indicating that it may have not quite completed its monetary tightening cycle.
- 1.10. Having fallen throughout 2023, annual US inflation started to pick up again in July 2023, rising from 3% in June, which represented the lowest level since March 2021, to 3.2% in July and then jumping again to 3.7% in August, beating expectations for a rise to 3.6%. Rising oil prices were the main cause of the increase. US GDP growth registered 2.1% annualised in the second calendar quarter of 2023, down from the initial estimate of 2.4% but above the 2% expansion seen in the first quarter.
- 1.11. The European Central Bank increased its key deposit, main refinancing, and marginal lending interest rates to 4.00%, 4.50% and 4.75% respectively in September, and hinted these levels may represent the peak in rates but also emphasising rates would stay high for as long as required to bring inflation down to target.
- 1.12. Although continuing to decline steadily, inflation has been sticky, Eurozone annual headline CPI fell to 5.2% in August while annual core inflation eased to 5.3% having stuck at 5.5% in the previous two months. GDP growth remains weak, with recent data showing the region expanded by only 0.1% in the three months to June 2023, the rate as the previous quarter.
- 1.13. **Financial markets:** Financial market sentiment and bond yields remained volatile, with the latter generally trending downwards as there were signs inflation, while still high, was moderating and interest rates were at a peak.
- 1.14. Gilt yields fell towards the end of the period. The 5-year UK benchmark gilt yield rose from 3.30% in April to peak at 4.91% in July before trending downwards to 4.29%, the 10-year gilt yield rose from 3.43% to 4.75% in August before declining to 4.45%, and the 20-year yield from 3.75% to 4.97% in August and then fell back to 4.84%. The Sterling Overnight Rate (SONIA) averaged 4.73% over the period.
- 1.15. **Credit review:** Having completed a review of its credit advice on unsecured deposits at UK and non-UK banks following concerns of a wider financial crisis after the collapse of Silicon Valley Bank purchase of Credit Suisse by UBS, as well as other well-publicised banking sector issues, in March Arlingclose reduced the advised maximum duration limit for all banks on its recommended counterparty list to 35 days. This stance continued to be maintained at the end of the period.
- 1.16. During the second quarter of the period, Moody's revised the outlook on Svenska Handelsbanken to negative from stable, citing concerns around the Swedish real estate sector.
- 1.17. Having put the US sovereign rating on Rating Watch Negative earlier in the period, Fitch took further action in August, downgrading the long-term rating to AA+, partly around ongoing debt ceiling concerns but also an expected fiscal deterioration over the next couple of years.
- 1.18. Following the issue of a Section 114 notice, in September Arlingclose advised against undertaking new lending to Birmingham City Council, and later in the month cut its recommended duration on Warrington Borough Council to a maximum of 100 days.

- 1.19. Arlingclose continued to monitor and assess credit default swap levels for signs of ongoing credit stress and although no changes were made to recommended durations over the period, Northern Trust Corporation was added to the counterparty list.
- 1.20. Heightened market volatility is expected to remain a feature, at least in the near term and, as ever, the institutions and durations on the Authority's counterparty list recommended by Arlingclose remains under constant review.

2. Movement in Treasury balances during the quarter

- 2.1. The underlying need to borrow for capital purposes is measured by the Capital Financing Requirement (CFR), while balance sheet resources are the underlying resources available for investment. The Authority pursued its strategy of keeping borrowing and investments below their underlying levels for the quarter, known as internal borrowing, in order to reduce risk and keep interest costs low. These factors are summarised in the table below.

Table 1: Balance Sheet Summary

	31.3.23 £m	Movement £m	30.9.23 £m	31.3.24 Forecast £m
General Fund CFR	193.3	6.5	199.8	223.2
Less: *Other debt liabilities	(2.4)	0.0	(2.4)	(2.4)
Borrowing CFR	190.9	6.5	197.4	220.8
Less: External borrowing	(198.7)	19.3	(179.4)	(204.2)
Net External borrowing	(7.8)	25.8	16.6	16.6
Less: Usable reserves	(39.8)	0.0	(39.8)	(30.3)
Less: Working capital	9.0	(10.8)	(10.8)	(1.3)
Net Investments	(38.5)	15.0	(34.0)	(15.0)

* finance leases, PFI liabilities and transferred debt that form part of the Authority's total debt

- 2.2. The Authority will look to maintain its strategy of internal borrowing as we move through the remainder of the financial year. If capital expenditure plans remain accurate, the Authority will have a further borrowing requirement through to the end of the year of around £24.8m (£204.2m less £179.4m) in addition to the borrowing required to refinance maturing short-term loans.
- 2.3. Historic trends would however suggest that the level of capital expenditure incurred during the year will be significantly lower than budgeted, and consequently the overall capital financing requirement at the end of the year will be lower than currently anticipated.
- 2.4. The borrowing and investment position as at 30th September and the change over the quarter is shown in the table below.

Table 2: Borrowing and Investment Summary

	30.6.23 Balance £m	30.6.23 Rate %	Movement	30.9.23 Balance £m	30.9.23 Rate %
Long-term borrowing	132.5	3.24	(5.8)	126.7	3.24
Short-term borrowing	48.3	3.23	4.4	52.7	3.72
Total borrowing	180.8	3.24	(1.4)	179.4	3.38
Long-term investments	0.0	N/A	0.0	0.0	N/A
Short-term investments	(3.0)	4.37	(21.5)	(24.5)	4.64
Pooled Funds	(4.0)	5.46	0.0	(4.0)	6.11

Cash and cash equivalents	(18.0)	Included in ST above	12.5	(5.5)	Included in ST above
Total investments	(25.0)	2.36	(9.0)	(34.0)	4.88
Net Borrowing	155.8		(10.4)	145.4	

2.5. During the second quarter of 2023/24 the authorities net borrowing position has reduced by £10.4m due to a combination of overall borrowing levels remaining fairly static and cash balances remaining resolutely high which increased overall investment balances.

3. **Borrowing activity during the quarter**

Table 3: Borrowing Position

	30.6.23 Balance £m	30.6.23 Weighted Average Rate %	30.6.23 Weighted Average Maturity (years)	Balance Movement	30.9.23 Balance £m	30.9.23 Weighted Average Rate %	30.9.23 Weighted Average Maturity (years)
Public Works Loan Board	118.7	3.3	21.4	(2.8)	115.9	3.2	21.7
Banks (LOBO)	13.6	4.8	18.5	(3.6)	10.0	4.9	18.4
Welsh Gov Interest Free	5.5	0.0	3.3	(0.0)	5.5	0.0	3.0
Local authorities/Other	43.0	3.1	0.3	5.0	48.0	3.9	0.5
Total borrowing	180.8	3.2	15.6	(1.4)	179.4	3.4	15.2

3.1. The Authority's short-term borrowing cost has continued to increase with the rise in Bank Rate and short-dated market rates. The average rate on the Authority's short-term loans at 30th September 2023 on a balance of £48m was 3.9%, compared with 3.1% on £43m of loans 3 months ago.

3.2. **LOBO Loans:** As market interest rates rose, there was an increased probability of call options on the Authorities LOBO loans being exercised by lenders. £10.6m of LOBO loans had annual call option dates during the six-month period to September 2023, with one lender exercising their option in Quarter 2 on the following loan:

Table 4: LOBO Options Exercised

	Amount £m	Rate %	Final Maturity	New Rate Proposed %	Action Taken by Authority
Loan 1	3.6	4.6	15/08/2041	6.12	Repaid at no cost. Borrowing will not be specifically refinanced.

3.3. The Authority has £10m of remaining LOBO loans with call dates within the next 12 months. The Authority has liaised with treasury management advisors Arlingclose over the likelihood of the options being exercised and expects an additional £7m loan to be called. The Authority plans to repay the loan at no additional cost as accepting the revised terms would mean the Authority would still have refinancing risk in later years. If required, the Authority will repay the LOBO loans with available cash or by borrowing from other local authorities or the PWLB.

3.4. **Forward starting loans:** To enable certainty of cost to be achieved without suffering a cost of carry in the intervening period, the Authority arranged £10m of forward starting loans with fixed interest rates of 4.15% for the delivery of cash in under one year's time, details of which are below:

Table 5: Forward starting loans

	Amount	Rate	Period	Forward
	£m	%	(Years)	Start
Local Authority Loan 1	5.0	3.8	1.0	Nov-23
Local Authority Loan 2	5.0	4.5	1.0	Feb-24
Total	10.0	4.15		

4. Investment Activity during the Quarter

4.1. During the second quarter, the Authority's investment balances ranged from between £22.3m and £55.0m due to timing differences between income and expenditure. The investment position during the second quarter was as follows:

Table 6: Treasury Investment Position

	30.6.23 Balance	Net Movement	30.9.23 Balance	30.9.23 Income Return	30.9.23 Weighted Average Maturity Days
	£m	£m	£m	%	
Banks & building societies (unsecured)	(0.5)	(1.5)	(2.0)	Average 4.64%	Up to 180 days
Government (incl. local authorities)	(3.0)	(21.5)	(24.5)		
Money Market Funds (MMFs)	(17.5)	14.0	(3.5)		
Multi asset income, Pooled funds	(4.0)	0.0	(4.0)	6.11%	N/A
Total investments	(25.0)	(9.0)	(34.0)		

4.2. UK Bank Rate increased by 0.75% over the quarter, from 4.5% at the end of June to 5.25% by the end of September. Short-dated cash rates rose commensurately, with 3-month rates rising to around 5.32% and 12-month rates to nearly 5.83%. The rates on DMADF deposits also rose, ranging between 5.17% and 5.24% by the end of September and Money Market Rates between 5.35% and 5.19%.

4.3. At the end of the first quarter the DMADF offered comparably higher returns and lower bail in risk compared to Money market funds. As such, during the second quarter the Authority moved a higher proportion of investments to the DMADF. The returns of each investment will be monitored over the third quarter.

4.4. The comparison of risk and return metrics are shown in the extracts from Arlingclose's quarterly investment benchmarking in the table below.

Table 7: Investment Benchmarking – Treasury investments managed in-house

	Credit Score	Credit Rating	<u>Bail-in Exposure</u>	Weighted Average Maturity (days)	Rate of Return %
MCC 30.06.2023	AA-	3.90	86%	4	4.54
MCC 30.09.2023	AA-	3.91	18%	16	4.88
Similar LAs	AA-	4.21	29%	86	4.88
All LAs	AA-	4.33	59%	13	4.92

4.5. **Externally Managed Pooled Funds:** £4m of the Authority's investments are invested in externally managed strategic pooled multi-asset and property funds where short-term security and liquidity are

lesser considerations, and the objectives instead are regular revenue income and longer-term price stability.

- 4.6. Over the first six months these funds generated £108k or an annualised average 6.11% income return, together with a £76k unrealised capital loss over the second quarter. Total unrealised capital losses since purchase stand at £506k.
- 4.7. Because these funds have no defined maturity date, but are available for withdrawal after a notice period, their performance and continued suitability in meeting the Authority's medium- to long-term investment objectives are regularly reviewed. Strategic fund investments are made in the knowledge that capital values will move both up and down on months, quarters and even years; but with the confidence that over a three- to five-year minimum period total returns will exceed cash interest rates.
- 4.8. The Authority maintains a treasury risk reserve to mitigate against the risk that capital losses on pooled funds are realised and result in a charge against the Council Fund.

5. Treasury performance forecast

- 5.1. The Authority measures the financial performance of its treasury management activities in terms of its impact on the revenue budget with the latest forecast shown in the table 8 below:

Table 8: Budget performance forecast

	Forecast £000's	Budget £000's	Over / (under) Budget
Interest Payable			
PWLB	3,915	3,922	(7)
Market loans	458	652	(194)
Short term loans	2,167	2,316	(149)
Other Activities (Internal Arrangements)	370	61	309
Total Interest payable on borrowing	6,909	6,952	(43)
Interest Receivable			
Invested cash short term	(1,189)	(925)	(264)
Pooled Funds	(199)	Included above	(199)
Finance lease income	(55)	Included above	(55)
Other Interest	(31)	Included above	(31)
Total income from Investments	(1,036)	(925)	(549)
Net Over/(Under)spend	5,930	6,027	(592)

6. Environmental, Social and Governance strategy update

- 6.1. In the first half of 2023/24 the investment portfolio has been assessed against 3 charters that organisations can voluntarily sign up for to ensure that all are meeting minimum level of ESG responsibility. These are shown in Table 9.
- 6.2. The majority of the Authorities funds were invested in organisations that were signatories of all three charters. Investments in two funds that were not signatories of the Net-Zero Asset Managers Initiative have subsequently been unwound.

- 6.3. An updated list of signatories to the three charters is provided by the Authority's treasury advisors each quarter and will continue to be monitored. Any counterparties not signed up to all three charters will be removed from the Authorities investment portfolio. The latest update was provided on 17.10.23 and is shown in Table 8 below.
- 6.4. A new ESG specific Investment product has also been opened in the second quarter. This fund aims to provide security of capital and liquidity while focussing on the performance of the underlying issuers on a range of environmental, social and governance metrics. We will look to prioritise this investment over others given opportunity while also identify new ESG conscious investments.

Table 9: ESG Charter Signatories

	UN Principles for Responsible Investment	Uk Stewardship Code 2020	Net-Zero Asset Managers Initiative
Aberdeen Asset Liquidity	✓	✓	✓
Aegon	✓	✓	✓
CCLA Investment Management	✓	✓	✓
Federated (Prime Rate) Liquidity Fund	✓	✓	✓
HSBC Global Asset Management	✓	✓	✓
LEGAL AND GENERAL MMF	✓	✓	✓
Ninety-One	✓	✓	✓
STATE STREET	✓	✓	✓
Morgan Stanley - No Longer Used	✓	✓	x
Goldman Sachs - No Longer Used	✓	✓	x

7. Non-Treasury Investments

- 7.1. Investments that do not meet the definition of treasury management investments (i.e. management of surplus cash) are categorised as either for service purposes (made explicitly to further service objectives) and/or for commercial purposes (made primarily for financial return).
- 7.2. The Authority held a net book value of £31.4m of non-treasury investments at the 31st March 2023. The forecast net return on investment is indicated below:

Table 10: Non-Treasury Investments

	Forecast Net (income) / loss @ Month 6 2023/24 £000's	Carrying Value 31.03.23 £000's	Net return 2023/24 %	Net return 2022/23 %
Oak Grove Solar Farm	(559)	5,485	10.19	13.44
Newport Leisure Park & service loan	(219)	19,756	1.11	0.01
Castlegate Business Park	216	6,159	(3.51)	(6.58)
Total	(562)	31,400	1.79	1.06

- 7.3. The investment at Newport Leisure park continues to provide a net income stream for the Authority, although this is lower than the expected 2% return after borrowing until currently negotiated rent free periods end.

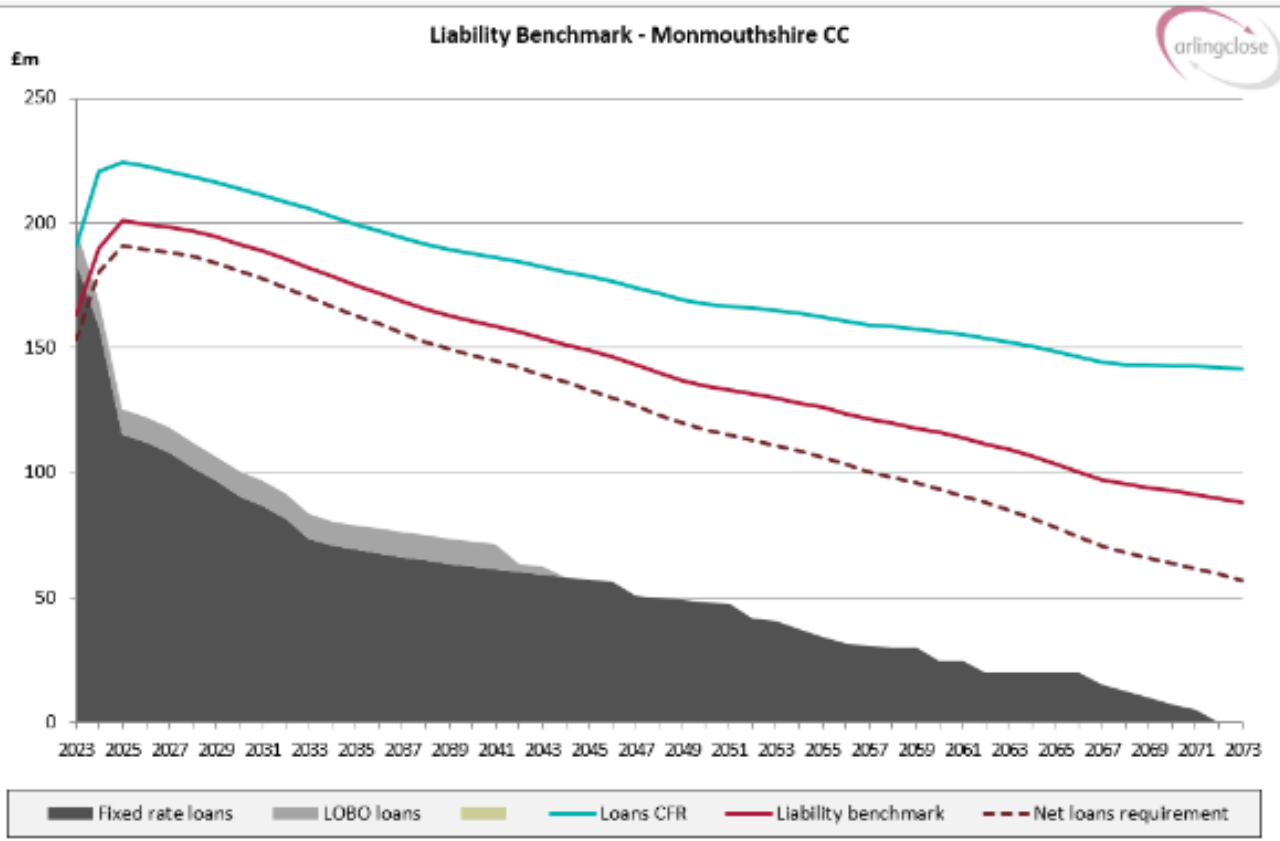
- 7.4. The investment in Castlegate is still providing a net negative ROI, however continued negotiations with interested parties should bring back a positive net return in 2024-25 following rent free periods.. This continues to represent a significant improvement on the position since the anchor tenant vacated their space in Spring 2022.
- 7.5. **Commercial Loan – Broadway Partners Limited:** On the 31st May 2023, Broadway Partners Limited announced that administrators had been appointed to enable them to restructure the business and a sales process to be undertaken. During this period, Broadway were continuing to trade and provide their usual services to both new and existing customers on their high-speed fibre network, however loan repayments due since 19th April 2023 remained outstanding.
- 7.6. The Investment Committee resolved to defer loan repayments such as to allow Monmouthshire Broadband Limited (the SPV) to remain solvent and until the administrator for Broadway Partners Limited has concluded the process to secure a buyer for the company.
- 7.7. In September the administrators identified a buyer and a deal was concluded shortly after. On 27th of September all outstanding loan principal and interest due was repaid. The interest received over the life of the loan totalled £159k.

8. Compliance with prudential indicators and treasury limits

- 8.1. The Section 151 officer reports that all treasury management activities undertaken during the second quarter complied fully with the CIPFA code and the limits and indicators as set out in the Authority's approved Treasury Management Strategy.
- 8.2. **Liability Benchmark:** This indicator compares the Authority's actual existing borrowing against a liability benchmark that has been calculated to show the lowest risk level of borrowing. The liability benchmark is an important tool to help establish whether the Council is likely to be a long-term borrower or long-term investor in the future, and so shape its strategic focus and decision making. It represents an estimate of the cumulative amount of external borrowing the Council must hold to fund its current capital and revenue plans while keeping treasury investments at the minimum level required to manage day-to-day cash flow.

	31.3.23 Actual	31.3.24 Forecast	31.3.25 Forecast	31.3.26 Forecast
Loans CFR	190.9	220.8	224.7	222.9
Less: Balance sheet resources	(37.6)	(40.6)	(33.4)	(33.2)
Net loans requirement	153.3	180.2	191.3	189.7
Plus: Liquidity allowance	10.0	10.0	10.0	10.0
Liability benchmark	163.3	190.2	201.3	199.7
Current loan profile	(198.7)	(167.8)	(125.7)	(122.1)
Borrowing requirement	0.0	22.4	75.6	77.6

- 8.3. Following on from the medium-term forecast above, the long-term liability benchmark assumes capital expenditure funded by borrowing is in line with the medium-term financial plan, minimum revenue provision on new capital expenditure is based on the annuity method, and expenditure and reserves all increasing by inflation of 2.5% p.a. This is shown in the chart below together with the maturity profile of the Authority's existing borrowing.



8.4. **Maturity Structure of Borrowing:** This indicator is set to control the Authority’s exposure to refinancing risk.

Maturity	30.9.23 Actual	Lower Limit	Upper Limit	Complied?
Under 12 months	29%	0%	60%	Yes
12 months and within 24 months	3%	0%	30%	Yes
24 months and within 5 years	7%	0%	30%	Yes
5 years and within 10 years	15%	0%	30%	Yes
10 years and within 20 years	11%	0%	30%	Yes
20 years and within 30 years	13%	0%	30%	Yes
30 years and within 40 years	10%	0%	30%	Yes
40 years and within 50 years	11%	0%	30%	Yes
50 years and above	0%	0%	30%	Yes

8.5. **Long-Term Treasury Management Investments:** The purpose of this indicator is to control the Authority’s exposure to the risk of incurring losses by seeking early repayment of its investments. The prudential limits on the long-term treasury management limits are:

	During quarter
Actual principal invested for 365 days & beyond year end	£0m
Limit	£5m
Complied?	Yes

8.6. **Security:** The Authority has adopted a voluntary measure of its exposure to credit risk by monitoring the value-weighted average credit rating or credit score of its investment portfolio. This is calculated by applying a score to each investment (AAA=1, AA+=2, etc.) and taking the arithmetic average, weighted by the size of each investment. Unrated investments are assigned a score based on their perceived risk.

	30.9.23 Actual	2023/24 Target	Complied?
Portfolio average credit	AA-/3.91	A-/5.0	Yes

8.7. **Borrowing limits:** Compliance with the [authorised limit](#) and [operational boundary](#) for external debt is demonstrated below.

	Maximum in quarter £m	30.9.23 Actual £m	2023/24 Operational Boundary £m	2023/24 Authorised Limit £m	Complied? Yes/No
Borrowing	198.7	179.4	239.9	263.9	Yes
PFI, Finance Leases & Other LT liabs	2.2	2.2	2.9	4.4	Yes
Total debt	200.9	181.5	242.8	268.3	Yes

8.8. **Note:** Since the operational boundary is a management tool for in-year monitoring it is not significant if the operational boundary is breached on occasions due to variations in cash flow, and this is not counted as a compliance failure.

8.9. **Treasury investment counterparties and limits -** The Council may invest its surplus funds with any of the counterparty types in the table below, subject to the limits shown:

	Maximum in quarter	30.9.23 Actual	2023/24 Limit	Complied? Yes/No
The UK Government	£26.4m	£24.5m	Unlimited	Yes
Local Authorities per counterparty	£0m	£0	£4m	Yes
Secured Investments	£0m	£0	£4m	Yes
Banks per counterparty, rating A- or above	£2m (£3m total for the Councils operational bank)	£2.0m	£2m (£3m total for the Councils operational bank)	Yes
Building societies (unsecured)	£0m	£0	£2m	Yes
Registered providers (e.g. Housing Associations (unsecured)	£0m	£0	£2m	Yes
Money Market Funds	£4m	£3.5m	£4m	Yes
Any group of pooled funds under the same management	£2m	£2m	£5m	Yes
Real estate investment trusts	£0m	£0	£5m	Yes
Limit per non-UK country	£0m	£0	£4m	Yes
Other Investments	£0m	£0	£2m	Yes

Background paper: Glossary of Treasury Terms

Authorised Limit	<p>The affordable borrowing limit determined in compliance with the Local Government Act 2003 (English and Welsh authorities) and the Local Government in Scotland Act 2003. This Prudential Indicator is a statutory limit for total external debt. It is set by the Authority and needs to be consistent with the Authority's plans for capital expenditure financing and funding. The Authorised Limit provides headroom over and above the <i>Operational Boundary</i> to accommodate expected cash movements. Affordability and prudence are matters which must be taken into account when setting this limit.</p> <p>(see also <i>Operational Boundary</i>, below)</p>
Balances and Reserves	<p>Accumulated sums that are maintained either earmarked for specific future costs or commitments or generally held to meet unforeseen or emergency expenditure.</p>
Bail-in	<p>Refers to the process which the banking regulatory authorities will use to restructure a financial institution which is failing or likely to fail. Unsecured creditors of and investors in that financial institution will participate in its restructure who will, as a consequence, incur a non-recoverable loss (commonly referred to as a 'haircut') on their obligation/investment. Local authority investments with banks and building societies such as term deposits, certificates of deposit, call accounts and non-collateralised bonds are unsecured investments and are therefore vulnerable to bail-in.</p>
Bank Rate	<p>The official interest rate set by the Bank of England's Monetary Policy Committee and what is generally termed at the "base rate". This rate is also referred to as the 'repo rate'.</p>
Bond	<p>A certificate of debt issued by a company, government, or other institution. The bond holder receives interest at a rate stated at the time of issue of the bond. The price of a bond may vary during its life.</p>
Capital Expenditure	<p>Expenditure on the acquisition, creation or enhancement of capital assets</p>
Capital Financing Requirement (CFR)	<p>The Council's underlying need to borrow for capital purposes representing the cumulative capital expenditure of the local authority that has not been financed.</p>
Capital growth	<p>Increase in the value of the asset (in the context of a collective investment scheme, it will be the increase in the unit price of the fund)</p>
Capital receipts	<p>Money obtained on the sale of a capital asset.</p>
CIPFA	<p>Chartered Institute of Public Finance and Accountancy</p>
Constant Net Asset Value (CNAV)	<p>Also referred to as Stable Net Asset Value. A term used in relation to the valuation of 1 share in a fund. This means that at all times the value of 1 share is £1/€1/US\$1 (depending on the currency of the fund). The Constant NAV is maintained since dividend income (or interest) is either added to the shareholders' account by creating shares equal to the value of interest earned or paid to the shareholder's bank account, depending on which option is selected by the shareholder.</p>
Collective Investment Schemes	<p>Funds in which several investors collectively hold units or shares. The assets in the fund are not held directly by each investor, but as part of a pool (hence these funds are also referred to as 'Pooled Funds'). Unit Trusts and Open-Ended Investment Companies are types of collective investment schemes / pooled funds.</p>

Corporate Bonds	Corporate bonds are bonds issued by companies. The term is often used to cover all bonds other than those issued by governments in their own currencies and includes issues by companies, supranational organisations and government agencies.
Corporate Bond Funds	Collective Investment Schemes investing predominantly in bonds issued by companies and supranational organisations.
CPI <i>Also see RPI</i>	Consumer Price Index. (This measure is used as the Bank of England's inflation target.)
Credit Default Swap (CDS)	A Credit Default Swap is similar to an insurance policy against a credit default. Both the buyer and seller of a CDS are exposed to credit risk. Naked CDS, i.e. one which is not linked to an underlying security, can lead to speculative trading.
Credit Rating	Formal opinion by a registered rating agency of a counterparty's future ability to meet its financial liabilities; these are opinions only and not guarantees.
Cost of carry	When a loan is borrowed in advance of requirement, this is the difference between the interest rate and (other associated costs) on the loan and the income earned from investing the cash in the interim.
Credit default swaps	Financial instrument for swapping the risk of debt default; the buyer effectively pays a premium against the risk of default.
Diversification / diversified exposure	The spreading of investments among different types of assets or between markets in order to reduce risk.
Derivatives	Financial instruments whose value, and price, are dependent on one or more underlying assets. Derivatives can be used to gain exposure to, or to help protect against, expected changes in the value of the underlying investments. Derivatives may be traded on a regulated exchange or traded 'over the counter'.
ECB	European Central Bank
Federal Reserve	The US central bank. (Often referred to as "the Fed")
Floating Rate Notes	A bond issued by a company where the interest rate paid on the bond changes at set intervals (generally every 3 months). The rate of interest is linked to LIBOR and may therefore increase or decrease at each rate setting
GDP	Gross domestic product – also termed as "growth" in the economy. The value of the national aggregate production of goods and services in the economy.
General Fund	This includes most of the day-to-day spending and income. (All spending and income related to the management and maintenance of the housing stock is kept separately in the HRA).
Gilts (UK Govt)	Gilts are bonds issued by the UK Government. They take their name from 'gilt-edged': being issued by the UK government, they are deemed to be very secure as the investor expects to receive the full face value of the bond to be repaid on maturity.
Housing Revenue Account (HRA)	A ring-fenced account of all housing income and expenditure, required by statute

IFRS	International Financial Reporting Standards
Income Distribution	The payment made to investors from the income generated by a fund; such a payment can also be referred to as a 'dividend'
Investments - Secured - unsecured	Secured investments which have underlying collateral in the form of assets which can be called upon in the event of default Unsecured investments do not have underlying collateral. Such investments made by local authorities with banks and building societies are at risk of bail-in should the regulator determine that the bank is failing or likely to fail.
Liability Benchmark	Term in CIPFA's Risk Management Toolkit which refers to the minimum amount of borrowing required to keep investments at a minimum liquidity level (which may be zero).
LOBOs	LOBO stands for 'Lender's Option Borrower's Option'. The underlying loan facility is typically long term and the interest rate is fixed. However, in the LOBO facility the lender has the option to call on the facilities at predetermined future dates. On these call dates, the lender can propose or impose a new fixed rate for the remaining term of the facility and the borrower has the 'option' to either accept the new imposed fixed rate or repay the loan facility.
LVNAV (Low Volatility Net Asset Value)	From 2019 Money Market Funds will have to operate under a variable Net Value Structure with minimal volatility (fluctuations around £1 limited to between 99.8p to 100.2p)
Maturity	The date when an investment or borrowing is repaid.
Maturity profile	A table or graph showing the amount (or percentage) of debt or investments maturing over a time period. The amount or percent maturing could be shown on a year-by-year or quarter-by-quarter or month-by-month basis.
MiFID II	MiFID II replaced the Markets in Financial Instruments Directive (MiFID I) from 3 January 2018. It is a legislative framework instituted by the European Union to regulate financial markets in the bloc and improve protections for investors.
Money Market Funds (MMF)	Pooled funds which invest in a range of short term assets providing high credit quality and high liquidity.
Minimum Revenue Provision	An annual provision that the Authority is statutorily required to set aside and charge to the Revenue Account for the repayment of debt associated with expenditure incurred on capital assets
Non-Specified Investments	Term used in the Communities and Local Government Guidance and Welsh Assembly Guidance for Local Authority Investments. It includes any investment for periods greater than one year or those with bodies that do not have a high credit rating, use of which must be justified.
Net Asset Value (NAV)	A fund's net asset value is calculated by taking the current value of the fund's assets and subtracting its liabilities.
Operational Boundary	This is the limit set by the Authority as its most likely, i.e. prudent, estimate level of external debt, but not the worst case scenario. This limit links directly to the Authority's plans for capital expenditure, the estimates of the Capital Financing Requirement (CFR) and the estimate of cashflow requirements for the year.

Permitted Investments	Term used by Scottish Authorities as those the Authority has formally approved for use.
Pooled funds	See Collective Investment Schemes (above)
Premiums and Discounts	<p>In the context of local authority borrowing, (a) the premium is the penalty arising when a loan is redeemed prior to its maturity date and (b) the discount is the gain arising when a loan is redeemed prior to its maturity date. If on a £1 million loan, it is calculated* that a £100,000 premium is payable on premature redemption, then the amount paid by the borrower to redeem the loan is £1,100,000 plus accrued interest. If on a £1 million loan, it is calculated that a £100,000 discount receivable on premature redemption, then the amount paid by the borrower to redeem the loan is £900,000 plus accrued interest.</p> <p>PWLB premium/discount rates are calculated according to the length of time to maturity, current market rates (plus a margin), and the existing loan rate which then produces a premium/discount dependent on whether the discount rate is lower/higher than the coupon rate.</p> <p>*The calculation of the total amount payable to redeem a loan borrowed from the Public Works Loans Board (PWLB) is the present value of the remaining payments of principal and interest due in respect of the loan being repaid prematurely, calculated on normal actuarial principles. More details are contained in the PWLB's lending arrangements circular.</p>
Private Finance Initiative (PFI)	Private Finance Initiative (PFI) provides a way of funding major capital investments, without immediate recourse to the public purse. Private consortia, usually involving large construction firms, are contracted to design, build, and in some cases manage new projects. Contracts can typically last for 30 years, during which time the asset is leased by a public authority.
Prudential Code	Developed by CIPFA and introduced on 01/4/2004 as a professional code of practice to support local authority capital investment planning within a clear, affordable, prudent and sustainable framework and in accordance with good professional practice.
Prudential Indicators	Indicators determined by the local authority to define its capital expenditure and asset management framework. They are designed to support and record local decision making in a manner that is publicly accountable; they are not intended to be comparative performance indicators between authorities.
PWLB	Public Works Loans Board. It is a statutory body operating within the United Kingdom Debt Management Office, an Executive Agency of HM Treasury. The PWLB's function is to lend money from the National Loans Fund to local authorities and other prescribed bodies, and to collect the repayments.
Quantitative Easing	In relation to the UK, it is the process used by the Bank of England to directly increase the quantity of money in the economy. It "does not involve printing more banknotes. Instead, the Bank buys assets from private sector institutions – that could be insurance companies, pension funds, banks or non-financial firms – and credits the seller's bank account. So the seller has more money in their bank account, while their bank holds a corresponding claim against the Bank of England (known as reserves). The end result is more money out in the wider economy". Source: Bank of England
Registered Provider of Social Housing	Formerly known as Housing Association
Revenue Expenditure	Expenditure to meet the continuing cost of delivery of services including salaries and wages, the purchase of materials and capital financing charges

RPI	Retail Prices Index. A monthly index demonstrating the movement in the cost of living as it tracks the prices of goods and services including mortgage interest and rent. Pensions and index-linked gilts are uprated using the CPI index.
SORP	Statement of Recommended Practice for Accounting (Code of Practice on Local Authority Accounting in the United Kingdom).
Specified Investments	Term used in the CLG Guidance and Welsh Assembly Guidance for Local Authority Investments. Investments that offer high security and high liquidity, in sterling and for no more than 1 year. UK government, local authorities and bodies that have a high credit rating.
Supported Borrowing	Borrowing for which the costs are supported by the government or third party.
Supranational Bonds	Instruments issued by supranational organisations created by governments through international treaties (often called multilateral development banks). The bonds carry an AAA rating in their own right. Examples of supranational organisations are those issued by the European Investment Bank, the International Bank for Reconstruction and Development.
Treasury Management Code	CIPFA's Code of Practice for Treasury Management in the Public Services.
Temporary Borrowing	Borrowing to cover peaks and troughs of cash flow, not to fund spending.
Term Deposits	Deposits of cash with terms attached relating to maturity and rate of return (interest)
Unsupported Borrowing	Borrowing which is self-financed by the local authority. This is also sometimes referred to as Prudential Borrowing.
Usable Reserves	Resources available to finance future revenue and capital expenditure
Variable Net Asset Value (VNAV)	A term used in relation to the valuation of 1 share in a fund. This means that the net asset value (NAV) of these funds is calculated daily based on market prices.
Working Capital	Timing differences between income/expenditure and receipts/payments
Yield	The measure of the return on an investment instrument

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SUBJECT:	Effectiveness of Strategic Risk Management Framework
MEETING:	Governance and Audit Committee
DATE:	4th December 2023
DIVISIONS/WARDS AFFECTED:	All

1. PURPOSE:

- 1.1 To provide Governance and Audit Committee with an assessment of the implementation of the council's strategic risk management framework which is an integral part of the authority's corporate governance arrangements.
- 1.2 To provide members with an overview of the current strategic risks facing the authority.

2. RECOMMENDATIONS:

- 2.1 That members use the assessment to seek assurance about the effectiveness of the authority's risk management arrangements.
- 2.2 That members note the possible further corporate risk control policies identified in 3.8 that the Committee could review and that a further update will be provided to the committee as part of the strategic risk management policy review in April 2024.

3. KEY ISSUES:

- 3.1 Governance and Audit Committee has a specific role in providing independent assurance of the adequacy of the council's risk management framework. The committee also has a role in assessing the authority's corporate governance arrangements, of which risk management is an important part. An integral part of the risk management arrangements is the Whole Authority Strategic Risk Register. The strategic risk assessment ensures that:
 - Strategic risks are identified and monitored by the authority
 - Risk controls are appropriate and proportionate
 - Senior managers and elected members systematically review the strategic risks facing the authority.
- 3.2 The council's strategic risk management policy and guidance helps ensure strategic risks are identified and assessed robustly, risk controls are put in place that are appropriate and proportionate, and risks are supported by effective mitigations to ensure, as far as possible, risk reduction/risk management. The report is made up of three parts:
 - Part 1 provides a self-assessment of the effectiveness of the operation of strategic risk management arrangements in line with the council's strategic risk management policy. This also forms part of the assessment of the effectiveness of the 'enabling functions' which includes performance and risk management under the Local Government and Elections (Wales) Act 2022.
 - Part 2 provides an overview of the strategic risk register and key amendments, including the strategic risks, the risk levels pre and post mitigation, the risk owner who has agreed the update, and any key changes, such as adjustments to risk levels or mitigating action updates.

- The appendix provides a summary of the council's strategic risk management policy and process for identifying and managing strategic risks. The full policy and guidance can be viewed on the council's intranet site, also known as The Hub.

Risk updates overview

3.3 The council continues to operate in a dynamic environment and has controls in place to assess, manage and mitigate, as far as possible, a variety of risks. The strategic risk register will regularly evolve and adapt in line with this. This will include adjusting the focus, detail and risk levels of risks where necessary. Any changes to risk levels/scores since the last report to the committee in March 2023 can be found in the table below:

Risk	Current risk score	Previous risk score	Reason
1) It will not be possible to deliver all of the commitments in the Community and Corporate Plan leading to slower than desired progress towards our purpose as a result of a tightening financial position	High (12)	Medium (8)	The focus of this risk and risk level has been amended to the increased risk of not being able to deliver all priorities set out in the Community and Corporate Plan as a result of the current financial position.
2) Some services will become financially unsustainable in the short to medium term in their current form due to increasing demand and continuing financial pressures	High (16)	High (12)	The risk score has increased due to the current economic climate and financial situation the council faces. The Council has a forecast in year 23/24 overspend and modelled budget gap of £14.4 million in 24/25.
8) High absence rates, particularly among those eligible for free school meals, and worsening behaviours in schools as a result of the continuation of trends that first emerged during the pandemic will result in a worsening of educational attainment	High (16)	Medium (8)	The risk has been adjusted to reflect the increased risk of delayed impacts of the pandemic on learning through reduced attendance levels and worsening behaviours in schools impacting on educational attainment
11a) The council is unable to deliver its commitment to decarbonise its operations in sufficient time to achieve net zero by 2030 because our resources are not commensurate with the scale and complexity of the challenge	High (16)	High (12)	The post-mitigation risk level has been increased to reflect the increasing likelihood that the Council will struggle to become net-zero by 2030 because its resources are not commensurate with the scale and complexity of the challenge.
12) The rising cost of living tips more families into crisis requiring public service interventions which diverts resources from other policy priorities	High (12)	Medium (8)	The risk has been updated to assess continuing financial pressures that is resulting in an increasing number of families requiring additional public service support
13) Residents are unable to secure or retain suitable accommodation, leading to rising homelessness and outward migration as a result of failures in the housing market	Medium (8)	High (12)	The risk level has decreased from high to medium post-mitigation to reflect the improvements seen in securing homelessness accommodation as a result of the Rapid Rehousing Transition Plan work.

- 3.4 In addition to the changes to risk levels, some more significant recent changes are:
- The addition of risk 1b to capture the risk to timely and appropriate decision making;
 - The addition of risk 14 to identify the risk of a material reduction in public bus services which may occur as a result of diminished funding for bus operators from Welsh Government;
 - The addition of risk 15 to identify the risk of increased legal challenge to council decisions and service delivery;
 - A re-definition of risk 10 related to the Replacement Local Development Plan into four parts (10 a, b, c and d), to ensure the risks of the council not progressing with the Replacement Local Development Plan are clearly captured and mitigating action identified.
- 3.5 This report does not include the full risk register or a full update of progress against mitigating actions. Scrutiny of that aspect of the work rests with Performance and Overview Scrutiny Committee and the full register has been presented to the committee at its November meeting. The full strategic risk register will also be presented to Cabinet for consideration at the December meeting. Members of Governance and Audit Committee have access to the papers of other committees should they wish to familiarise themselves with the wider work. All councillors can also access a live version of the risk register on the authority's intranet site.

Risk Management updates

- 3.6 An internal audit review into the council's governance arrangements and internal controls in place for risk management is currently being undertaken. This will be informed by this self-assessment of arrangements and the outcome of the audit will inform future reports to the committees.
- 3.7 The strategic risk management policy and guidance is currently being reviewed. The areas being reviewed include risk identification arrangements, risk appetite, responsibilities for managing risks and reporting arrangements. This will also be informed by the findings from the internal audit. The proposed amendments to the policy will be provided to Governance & Audit Committee to review in April 2024. Ahead of the review being completed, following feedback from committees, 'numerical' scores have been added to the risk matrix, as shown in the appendix. This aims to demonstrate changes more clearly in risk levels following an assessment of risk likelihood and impact.
- 3.8 The committee's action list includes the action for the 'Deputy Chief Executive to consider which corporate risk control policies (extending beyond IT and data protection) that the Committee should periodically review and recommend for approval across the authority. The strategic risk management policy identifies under the Council's risk management approach other procedures and process through which risks are managed – these include service business plans, Emergency Management Plans, business continuity plans, health and safety procedures, financial regulations and insurance arrangements. Given the committee's responsibilities this identifies risk controls that the committee could consider for review, noting these will each need to be considered individually with regard to the arrangements already in place.
- 3.9 As part of the strategic risk management policy review, the alignment with these arrangements and any further that need to be specified will be reassessed. This will be undertaken in coordination with officer led governance working group. Informed by the review it is proposed to identify any further corporate risk control policies that the committee should review and present these to a future meeting of the committee.
- 3.10 In addition, some of the strategic risks identified in part 1, will have further risk controls in place. In reviewing the risks provided the committee should consider if there is any further assurance of the risk controls in place they require from risk owners. This could then be requested to be

provided to Governance & Audit Committee or coordinated with the remits of scrutiny committees.

Chief Officer Commentary

- 3.11 Following feedback from the chair of the committee it has been agreed that a commentary from the responsible Chief Officer be added to this and future reports. The responsibility sits with the Chief Officer for People, Performance and Partnerships:
- 3.12 “Having overseen the process of updating the risk assessment I’m satisfied that it presents an accurate assessment of the strategic risks facing the authority over the next three years based on knowledge available to responsible officers at the present time. The mitigating actions are being applied are proportionate to the level of risk and appropriate given resources available to the authority.”

4. REASONS:

- 4.1 To provide timely, relevant information on strategic risks as part of the performance management framework for ensuring the authority is well run and able to contribute to achieving the Council’s purpose.

5. AUTHORS:

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Part 1 - Monmouthshire County Council Whole Authority Strategic Risk Assessment Overview – November 2023

Ref	Potential Risk	Council objective impacted	Risk Level (score) – Pre mitigation	Risk Level (score) – Post mitigation	Changes to risk level/score	Risk level/score change	Planned mitigating actions	Mitigating action progress	Risk owned by:
	<i>Risk identified in the strategic risk register</i>	<i>Risk to delivery of Community and Corporate plan objective</i>	<i>Risk assessed by the level of likelihood of occurrence and impact/ consequence prior to any mitigation</i>	<i>Risk assessed by the level of likelihood of occurrence and impact/ consequence informed by the expected impact of mitigation</i>	<i>The rationale for adjusting the risk level since the last risk update report in March 2023</i>	<i>Whether the risk level overall has increased, stayed the same or decreased</i>	<i>Significant planned mitigation actions identified for delivery in the risk register by November 2023</i>	<i>The progress made and impact, where available of the planned mitigation actions by November 2023</i>	<i>The owners of the risk, in line with strategic management policy, who have agreed the risk</i>

Ref	Potential Risk	Council objective impacted	Risk Level (score) – Pre mitigation	Risk Level (score) – Post mitigation	Changes to risk level/score	Risk level/score change	Planned mitigating actions	Mitigating action progress	Risk owned by:
Risks to resources									
1	It will not be possible to deliver all of the commitments in the Community and Corporate Plan leading to slower than desired progress towards our purpose as a result of a tightening financial position	All	2023/24 – High (12) 2024/25 – High (12) 2025/26 – High (12)	2023/24 – Medium (8) 2024/25 – Medium (8) 2025/26 – Medium (8)	The risk level has increased from medium to high pre-mitigation for 24/25 and 25/26, and from low to medium post-mitigation for 24/25 and 25/26 due to the increased risks to delivering commitments given the council's current financial position.	Increased	Ensure affordability and deliverability of the commitments set out in the Community and Corporate Plan in the context of the wider economic climate	The Community and Corporate Plan was endorsed by Council in April 2023. Cabinet have set 'A balanced budget reflecting objectives, priorities and commitments set out in the Council's Community and Corporate Plan' as strategic principle for the 24/25 budget.	Paul Matthews, Chief Executive & Cllr Mary Ann Brocklesby, Leader
							Review and update enabling strategies following the adoption of a new Community and Corporate Plan	The enabling strategies are currently under review, these are behind the original completion date and will be informed by the 24/25 budget process.	
1b (New)	A small working political majority makes it harder to ensure timely and appropriate decision making which results in delays and uncertainty in some projects	All	2023/24 – High (12) 2024/25 – High (12) 2025/26 – High (12)	2023/24 – Medium (9) 2024/25 – Medium (9) 2025/26 – Medium (9)	New risk - to ensure that that the risk to the speed at which the council is able to make decisions and implement change as a result of the slim majority is assessed and managed.	New risk	Utilise members seminars and scrutiny workshops to engage and involve all councillors in the development of policy	Members seminars are being used to share developments and involve councillors on significant forthcoming decisions. Scrutiny workshops are being held to seek councillors' involvement in the development of proposals.	Paul Matthews, Chief Executive & Cllr Mary Ann Brocklesby, Leader
							Maintain a fully populated forward work planner of Cabinet and Council business	An established forward work planner is in place. There is a need to improve the timeliness of completion of the forward plan and align the forward plans of each committee.	
2	Some services will become financially unsustainable in the short to medium term in their current form due to increasing demand and continuing financial pressures	All	2023/24 – High (16) 2024/25 – High (16) 2025/26 – High (16)	2023/24 – High (12) 2024/25 – High (12) 2025/26 – High (12)	The risk score has increased to 16 due to forecast in year 23/24 overspend and modelled budget gap of £14.4 million in 24/25.	Increased	Ensure that services deliver within budget, deliver savings targets and continue to identify, review and challenge pressures	A 2023/24 early revenue budget update indicates £4.2m of service pressures. A structured budget recovery plan has been developed and agreed to address the in-year overspend.	Peter Davies, Deputy Chief Executive and Chief Officer Resources & Cllr Rachel Garrick and Cllr Ben Callard, Cabinet Members for Resources
							Develop a set of budget proposals 2024/25	Modelling suggests a budget gap of £14.4 million in 24/25. An approach to develop the 2024/25 budget has been developed and agreed by cabinet.	

Ref	Potential Risk	Council objective impacted	Risk Level (score) – Pre mitigation	Risk Level (score) – Post mitigation	Changes to risk level/score	Risk level/score change	Planned mitigating actions	Mitigating action progress	Risk owned by:
							Strengthen medium to long term strategic financial planning as part of the Medium-term financial plan,	The Medium-Term Financial Strategy (MTFS) will be presented to Council in February. The Medium-Term Financial Plan (MFTP) will follow which will outline a more specific delivery plan.	
3	The authority is unable to maintain key infrastructure and meet other identified pressures due to insufficient capital funding availability	All	2023/24 – High (12) 2024/25 – High (12) 2025/26 – High (12)	2023/24 – High (12) 2024/25 – High (12) 2025/26 – High (12)	Risk levels remain unchanged	Unchanged	Continue to monitor the Capital budget Deliver the Asset Management Plan to manage the Council's land and property portfolio	During 2022/23, 102 capital schemes required slippage into 2023/24 totalling 42% of the total budget. This suggests underlying issues such as unrealistic profiling of budgeting and a lack of resourcing to manage the schemes planned. A refreshed Asset Management Strategy is currently being developed and is due to be presented to Council in January.	Peter Davies, Deputy Chief Executive and Chief Officer Resources & Cllr Rachel Garrick and Cllr Ben Callard, Cabinet Members for Resources
4	Increases in the number of people exiting the labour market, a UK skills shortage and wage inflation will impact recruitment, retainment and workforce planning and affect the delivery of Council services	All	2023/24 – High (16) 2024/25 – High (16) 2025/26 – High (16)	2023/24 – Medium (8) 2024/25 – Medium (8) 2025/26 – Medium (8)	Risk levels remain unchanged	Unchanged	Recruit and retain staff more effectively Embed workforce planning into team management processes	An e-recruitment and learning management system is being implemented to support the development of recruitment as a genuine talent acquisition process. Workforce planning arrangements will be developed as part of the development of the people strategy.	Matthew Gatehouse, Chief Officer People, Performance and Partnerships, & Cllr Rachel Garrick and Cllr Ben Callard, Cabinet Members for Resources
	Loss or corruption of data due to cyber-attack or data mismanagement, which will compromise the delivery of essential council services	All	2023/24 – High (12) 2024/25 – High (12) 2025/26 – High (12)	2023/24 – Medium (8) 2034/25 – Medium (8) 2025/26 – Medium (8)	Risk levels remain unchanged	Unchanged	Ensure robust arrangements are in place to safeguard the organisation's data and systems from cyber-attack	The Council recognises that total elimination of cyber-attack is not possible, but the focus is on ensuring robust arrangements are in place to safeguard data and systems from cyber-attack via: physical barriers to the network, staff awareness, training and culture and structured governance, risk analysis and business continuity planning.	Sian Hayward, Head of Information, Technology & Security & Cllr Rachel Garrick and Cllr Ben Callard, Cabinet Members for Resources
6	Significant harm to a child or adult may occur due to a specific failure of safeguarding arrangements	A Connected Place Where People Care	2023/24 – Medium (8) 2024/25 – Medium (8) 2025/26 – Medium (8)	2023/24 – Medium (8) 2024/25 – Medium (8) 2025/26 – Medium (8)	Risk levels remain unchanged	Unchanged	Continually monitor and evaluate safeguarding processes and practice and ensure good accountability for safeguarding	The Annual 23/24 Safeguarding Evaluation Report has been completed and will be reported to Council in December 2023. The strategic risk will be updated further in line with the findings of this evaluation.	Will Mclean, Chief Officer Children & Young people, Jane Rodgers, Chief Officer Social Care, Safeguarding & Health & Cllr Ian Chandler, Cabinet Member for Social Care, Safeguarding and Accessible Health Services
7	Risk of harm if we are unable to meet the care and support needs of some vulnerable children due to an increase in demand, complexity of cases and insufficiency of registered placements	A Connected Place Where People Care	2023/24 – High (12) 2024/25 – High (12) 2025/25 – High (12)	2023/24 – High (12) 2024/25 – High (12) 2025/25 – High (12)	Risk levels remain unchanged	Unchanged	Continue to implement the fostering strategy Develop and expand the Children's Services Commissioning Strategy in response to the intention to	The remains an insufficiency of in-house carers in Monmouthshire, particularly carers who are able to provide more specialist care or look after sibling groups; One generic foster carers has been approved so far in 23/24. This creates an over-reliance on private and independent providers where the right placement for a child cannot be assured. Two children's homes have been commissioned this year through partnership models, one of which was a specialised provision for children with very complex needs. There are huge challenges with this work particularly around workforce, resources	Jane Rodgers, Chief Officer Social Care, Safeguarding & Health & Cllr Ian Chandler, Cabinet Member for Social Care, Safeguarding and Accessible Health Services

Ref	Potential Risk	Council objective impacted	Risk Level (score) – Pre mitigation	Risk Level (score) – Post mitigation	Changes to risk level/score	Risk level/score change	Planned mitigating actions	Mitigating action progress	Risk owned by:
							eliminate profit from children’s social care	and the time it takes to develop provision. The demand for appropriate placements remains high in a low supply environment.	
8	Risk of harm if we are unable to meet the care and support needs of some vulnerable adults due to an increase in demand and complexity of cases	A Connected Place Where People Care	2023/24 – High (16) 2024/25 – High (16) 2025/26 – High (16)	2023/24 – High (12) 2024/25 – High (12) 2025/25 – High (12)	Risk levels remain unchanged	Unchanged	Work with Welsh Government to recruit and retain care staff	A social care recruitment and retention strategy has been developed, with a particular focus on addressing areas where there is high demand. At March 2023 the number of vacancies across the social care sector was 56; this has decreased to 20 in October 2023.	Jane Rodgers, Chief Officer Social Care, Safeguarding & Health & Cllr Ian Chandler, Cabinet Member for Social Care, Safeguarding and Accessible Health Services
							Implement a ‘place-based’ approach to create sustainability in care at home services	A micro-carer pilot was launched in April 2022. A micro carer is a self-employed care worker that provides flexible, personalised support and care to citizens who live in their local area. There are currently 21 people being supported by micro-carers in their local community, delivering 161 hours of care and support in total each week.	
9	High absence rates, particularly among those eligible for free school meals, and worsening behaviours in schools as a result of the continuation of trends that first emerged during the pandemic will result in a worsening of educational attainment	A Learning Place	2023/24 – High (16) 2024/25 – High (12) 2025/26 – High (12)	2023/24 – High (16) 2024/25 – High (12) 2025/26 – High (12)	The risk levels have increased from medium to high for all levels. The risk has been adjusted to reflect the progress made in mitigating the risk of implementing the new national curriculum on learning and the continued risk of delayed impacts of the pandemic on learning through reduced attendance levels and worsening behaviours in schools.	Increased	Work with Education Welfare Services to ensure that pupils attend school regularly and are able to access excellent teaching and learning	Education Welfare Officers are working with vulnerable pupils to bring them back into the educational setting, where possible. There are varying reasons for pupil absence, so a different approach is being adopted for different cohorts, and the Education team are working with multiple agencies to ensure these children and young people return to school.	Will Mclean, Chief Officer Children & Young People & Cllr Martyn Groucutt, Cabinet member for Education
							Support learners’ wellbeing through excellent teaching and learning and through wider school-based activity	A range of approaches to reduce barriers to learning for vulnerable pupils have been developed. The whole school approach to emotional and mental wellbeing is a structured approach for schools. This has a significant effect on children’s attendance and achievement in school. The phased engagement of schools has been positive: 59% of schools are currently working with the team, an increase from 43%.	
							Continue to monitor the implementation of the new school curriculum	The Curriculum for Wales has been adopted in all primary schools and is being rolled out in all our secondary schools. The Education Achievement Service (EAS) provide a comprehensive package of professional learning as part of a Learning Network Schools model to support schools and settings to realise the Curriculum for Wales within their context.	

Ref	Potential Risk	Council objective impacted	Risk Level (score) – Pre mitigation	Risk Level (score) – Post mitigation	Changes to risk level/score	Risk level/score change	Planned mitigating actions	Mitigating action progress	Risk owned by:
10	<p>a) The council is unable to proceed with the Deposit Replacement Local Development Plan (RLDP) due to a failure to identify and agree suitable Gypsy, Roma and Traveller sites</p> <p>b) The council does not support the Deposit RLDP</p> <p>c) Delays to the adoption of a RLDP inhibits our ability to take forward key policy objectives such as job creation and affordable housing development</p> <p>d) High phosphate levels in the rivers Usk and Wye limit development opportunities within a significant proportion of the county</p>	<p>A Safe Place to Live</p> <p>A Thriving and Ambitious Place</p>	<p>2023/24 – High (12)</p> <p>2024/25 – High (12)</p> <p>2025/26 – High (12)</p>	<p>2023/24 – High (12)</p> <p>2024/25 – High (12)</p> <p>2025/26 – High (12)</p>	Risk levels remain unchanged. The risk has been amended to include further risks related to being unable to proceed with the Deposit Plan due to a failure to identify and agree suitable Gypsy, Roma and Traveller sites and the council the council not supporting the deposit plan.	Unchanged	<p>Prepare a replacement Local Development Plan to address the county's issues/challenges, including in relation to the provision of housing (market and affordable) and employment opportunities</p> <p>Work with partner organisations to identify and implement solutions to phosphate pollution in the Rivers Usk and Wye</p> <p>Ensure RLDP growth ambition is met by essential infrastructure</p>	<p>Following public consultation, a small number of changes were proposed to the RLDP Preferred Strategy; this amended strategy was approved by Council in October 2023. Three Gypsy, Roma and Traveller sites have been identified for public consultation; Cabinet's decision on which sites to include in the RLDP will be informed by this consultation.</p> <p>Dŵr Cymru has recently committed to providing phosphate stripping technology at Monmouth and Llanfoist waste water treatments works by April 2025.</p> <p>A Local Transport Plan and an Economy, Employment & Skills strategy will be presented for scrutiny in November 2023 before being presented to Cabinet in February 2024.</p>	Mark Hand, Head of Placemaking, Regeneration, Highways and Flooding & Cllr Paul Griffiths, Cabinet member for Planning and Economic Development
11	<p>a) The council is unable to deliver its commitment to decarbonise its operations in sufficient time to achieve net zero by 2030 because our resources are not commensurate with the scale and complexity of the challenge</p> <p>b)The Council is unable to deliver services as a result of the increasing frequency of climate-related emergencies such as floods or extreme heatwaves that increase the demand for emergency responses and can cause damage to infrastructure and the closure of facilities</p>	All	<p>2023/24 – High (16)</p> <p>2024/25 – High (16)</p> <p>2025/26 – High (16)</p>	<p>2023/24 – High (16)</p> <p>2024/25 – High (16)</p> <p>2025/26 – High (16)</p>	The risk score has increased from 12 to 16 post-mitigation to reflect the increasing likelihood that the Council will struggle to become net-zero by 2030 because its resources are not commensurate with the scale and complexity of the challenge.	Increased	<p>Deliver the Monmouthshire County Council Climate Emergency Strategy</p> <p>Prepare and adapt for the impact of climate change</p>	<p>The Climate Emergency Strategy is being reworked into an overarching Climate and Nature Emergency Strategy to align with the new Community and Corporate Plan and is due to be presented to Cabinet in February 2024. This reworked strategy will be underpinned by 4 action plans to better reflect the breadth of work that is taking place: Internal decarbonisation, Biodiversity and Nature Recovery, Rivers and Oceans and Community climate change.</p> <p>The council is working with Welsh Government to better understand their expectations around climate adaptation. The council is also part of broader assessments of climate risk being carried out by the Cardiff Capital Region as part of their Carbon Disclosure Project commitments.</p>	Strategic Leadership Team & Cllr Catrin Maby, Cabinet member for Climate Change and the Environment
12	The rising cost of living tips more families into crisis requiring public service interventions which diverts resources from other policy priorities	All	<p>2023/24 – High (12)</p> <p>2024/25 – High (12)</p> <p>2025/26 – High (12)</p>	<p>2023/24 – High (12)</p> <p>2024/25 – High (12)</p> <p>2025/26 – Medium (8)</p>	The risk has been updated to assess continuing financial pressures that is resulting in an increasing number of families requiring	Increased	To implement the discretionary Cost of Living Support Scheme	The Council is delivering a range of activities to support residents including the Money Matters campaign which signposts to sources of support and teaming up with Mind Monmouthshire and Citizens Advice Monmouthshire to set up cost of living support drop-in sessions across the county.	Frances O'Brien, Chief Officer Communities and Place & Cllr Angela Sandles, Cabinet member for Equalities and Engagement

Ref	Potential Risk	Council objective impacted	Risk Level (score) – Pre mitigation	Risk Level (score) – Post mitigation	Changes to risk level/score	Risk level/score change	Planned mitigating actions	Mitigating action progress	Risk owned by:
					additional public service support. The risk level has increased from medium to high pre-mitigation for 25/26 and post-mitigation 24/25, and from low to medium post-mitigation 25/26.		Work in partnership with community fridges to identify individuals and families in need of further support	Community Fridges are currently operating in Monmouth, Abergavenny, Caldicot, Goytre and Chepstow. Funding has been secured for consultancy support to help the community fridge volunteers and to look at sustainable funding options, common policies, practices and developing new fridges.	
13	Residents are unable to secure or retain suitable accommodation, leading to rising homelessness and outward migration as a result of failures in the housing market	A Safe Place to Live A Fair Place to Live	2023/24 – High (12) 2024/25 – High (12) 2025/26 – High (12)	2023/24 – Medium (8) 2024/25 – Medium (8) 2025/26 – Medium (8)	The risk level has decreased from high to medium post-mitigation to reflect the improvements seen in securing homelessness accommodation as a result of the Rapid Rehousing Transition Plan work.	Decreased	Develop suitable accommodation for homeless people, including long-term housing for all those accommodated in temporary housing Work with national providers and the Home Office to identify suitable accommodation for those fleeing persecution	A Rapid Rehousing Transition Plan was approved by Cabinet in April 2023. Through Rapid Rehousing the council has facilitated increased resources into homeless prevention, which has contributed to the increase in the percentage of homeless applications who are successfully prevented from becoming homeless. The council has also increased the availability of both temporary and settled homes for homeless households, contributing to decreasing the number of homeless households in bed and breakfast accommodation from 92 at year-end 22/23 to 59 in Q2. In September 2023 Council passed a motion committing the authority to formally becoming a county of sanctuary and we are presently working towards awarded criteria.	Frances O'Brien, Chief Officer Communities and Place, Matthew Gatehouse, Chief Officer People, Performance & Partnerships & Cllr Angela Sandles, Cabinet member for Equalities and Engagement
14 (new)	A reduction in public bus services as a result of a reduction in funding makes it harder for people to access key services across the county	All	2023/24 – High (12) 2024/25 – High (12) 2025/26 – High (12)	2023/24 – High (12) 2024/25 – High (12) 2025/26 – High (12)	New risk - A new risk of the possible reduction in public bus services has been identified. The scheme currently in place to support bus operators, the Bus Transition Fund, will likely be spent by December and there is uncertainty over future funding.	New risk	Lobby Welsh Government for the funding shortfall in 23/24 Reviewing our networks and looking to enhance the demand responsive provision Carry out tendering of bus services within the county	A letter is being drafted outlining the position and concerns in Monmouthshire. A Review has commenced. The review is currently analysing patronage figures to assess which services will continue to receive public bus subsidy. Services are due to go out for tender in November at the same time as Newport and Torfaen.	Frances O'Brien, Chief Officer Communities and Place & Cllr Catrin Maby, Cabinet member for Climate Change and the Environment
15 (new)	An increase in the number of legal challenges to decisions resulting in delays and increased costs	All	2023/24 – Medium (9) 2024/25 – Medium (9) 2025/26 – Medium (9)	2023/24 – Medium (6) 2024/25 – Medium (6) 2025/26 – Medium (6)	New risk - A new risk has been identified on the risk of delays to council decision making and service delivery as a result of legal challenges.	New risk	Impact assesses service changes and policy decisions	An established Integrated Impact Assessment template and guidance is in place and is completed for all decisions that require an assessment. These assessments are challenged by a panel of policy officers prior to decision.	James Williams, Chief Officer Law and Governance & Cllr Mary Ann Brocklesby, Leader

Part 2- Self-assessment of the effectiveness of the strategic risk management framework

Strategic Risk Management

The strategic risk register captures the high and medium level strategic risks that face the council in line with the council’s risk management policy. This ensures that:

- Strategic risks are identified and monitored by the authority
- Risk controls are appropriate and proportionate
- Senior managers and elected members systematically review the strategic risks facing the authority

	How well are we doing?	How do we know?	Action & timescale
Is there a collective view of the council’s strategic risk management arrangements and risk appetite that is communicated and understood?	<p>The Council has an established strategic risk management policy and guidance that is available on The Hub for members and officers to view. This defines the approach, process and responsibility for managing strategic risk in the council. This also defines risk tolerance and a broad risk appetite for the council.</p> <p>It has been identified that areas of the policy including risk identification arrangements, risk appetite, responsibilities for managing risks and reporting arrangements can be strengthened. This will need to be supported by subsequent communication of the amendments.</p> <p>The content and structure of the strategic risk register is in line with the current policy and guidance. The policy should also be used by service managers when completing service business plans. The latest quality assurance of service business plans demonstrates that the completion of risk registers in the plans needs strengthening and has identified a need for further strategic risk management training in the organisation.</p>	<p>Strategic risk management policy and guidance</p> <p>Strategic risk register</p> <p>Service business plans risk register</p>	<p>Review the strategic risk management policy and guidance – March 2024</p> <p>Complete further strategic risk training and guidance – May 2024</p>
Is strategic risk management embedded in the council?	<p>The strategic risk register is updated regularly and available to all members and officers to view at any time. There are arrangements to formally review the whole strategic risk register six monthly. These are facilitated by the performance and data insight team in coordination with risk owners and include review reports to Strategic Leadership Team and cabinet. The latest strategic risk register is formally reported to Governance & Audit Committee, Performance & Overview scrutiny committee and Cabinet. This facilitates and demonstrates that risk</p>	<p>Strategic risk management policy and guidance</p> <p>Strategic risk register</p> <p>Service business plans risk register</p>	<p>Review the strategic risk management policy and guidance – March 2024</p> <p>Complete further strategic risk training and guidance – May 2024</p>

	<p>management is embedded with these groups and officers who have specific responsibilities.</p> <p>The update of the strategic risk register is informed by a wide range of evidence as set by the policy. There is a need to strengthen the alignment with other risk management procedures and processes as part of the strategic risk management policy review.</p> <p>The starting point for identifying risks are often service business plans, where heads of service and service managers identify the risks their service faces or will face over the next three years in line with the risk management policy. The most recent quality assurance of service business plan (October 2023) identified that the completion of service-based risk registers was often not robust enough or fully completed. This shows strategic risk management isn't consistently embedded at a service level and has identified a need for further strategic risk management training in the organisation.</p>		
<p>Is there a shared understanding of the most significant corporate risks?</p>	<p>The strategic risk register identifies high and medium level strategic risks and ensures risk levels are assessed and mitigating actions are identified. The register is updated regularly, which ensures it remains focussed on the most significant strategic risks facing the council. It is available to all members and officers to view at any time and has regular reporting arrangements in place. This ensures there is a shared understanding of strategic risks facing the council.</p> <p>The findings from the most recent quality assurance of service business plans (October 2023) have shown that strategic risk management isn't consistently embedded at a service level, which could impact the effectiveness of service risk identification and management. This may subsequently be having an impact on the effective identification and management of strategic risks, although other arrangements are in place, as set out, will limit this.</p>	<p>Strategic risk register</p> <p>Service business plans risk register</p> <p>Strategic risk management reports</p>	<p>Complete further strategic risk training and guidance – May 2024</p> <p>Review of mitigating actions in strategic risk register - March 2024</p>

	<p>The latest six-monthly review of the strategic risk register has identified for some risks there is no forecast change in risk level or score post mitigation. A review of mitigation actions will be undertaken with risk owners to seek assurance these remain appropriate to manage the type/nature of the strategic risk identified.</p>		
<p>Is there a robust risk management assurance framework in place?</p>	<p>There are arrangements to formally review the whole strategic risk register six monthly. These are facilitated by the performance and data insight team in liaison with risk owners and include review reports to Strategic Leadership Team and cabinet. The latest strategic risk register is then formally reported to Governance & Audit Committee, Performance & Overview scrutiny committee and Cabinet. This provides assurance on the robustness of risk management framework in place.</p> <p>A review of strategic risk management arrangements is now reported to Governance and Audit Committee six monthly. The content of this report is being developed to support the committee to consider assurance of the risk framework in place. Risk management arrangements also form part of the Council's annual self-assessment report. These arrangements are providing assurance of the framework in place and informed areas for development identified in this report.</p> <p>To further strengthen internal risk assurance, the council's recently formed governance working group will have a key role in reviewing the risk management policy and guidance. Also, the findings from the internal audit of strategic risk management will further inform strengths and area for development is the Council's risk management.</p>	<p>Strategic risk register</p> <p>Service business plans quality assurance</p> <p>Strategic risk management reports</p>	<p>Review the strategic risk management policy and guidance – March 2024</p>

Appendix: Strategic Risk Management Policy – Summary

This sets out the Council’s policy and approach to strategic risk management. A copy of the full policy and guidance is available to staff and members on the council’s intranet the Hub (Finance & Performance Management section – risk assessment)

Risk Management is the process of identifying risks, evaluating their potential consequences and determining the most effective methods of controlling them or responding to them. Strategic risks are those which affect the Council as a whole. Typically these will be key risks which could significantly jeopardise the Council’s ability to achieve its objectives, statutory plans and/or provide operational services as planned.

The Council is committed to the effective management of risk. As a large public sector organisation, it is exposed to a wide range of risks and threats in delivering key services to communities. Within the Council the purpose of risk management is to:

- preserve and protect the Council’s assets, reputation and staff
- promote corporate governance and aid good management in controlling and managing risks
- support successful delivery of strategic aims, objectives and outcomes
- improve business performance and better anticipate calculated risks where these are likely in delivering improvements
- avoid unnecessary liabilities, costs and failures

The Council seeks to ensure that risk management is effective from strategic to individual services and employees. Therefore, all employees and councillors are responsible for ensuring there are good levels of internal control and risk management throughout the Council in order that the Council’s specified outcomes are achieved.

The Council uses a ‘traffic light’ system of Red/Amber/Green associated with High/Medium/Low to categorise risk levels. This is determined using the risk matrix below.

High risk	The risk is highly likely to occur and the impact will be major. Management action/control evaluation and improvement is required coupled with continued pro-active monitoring
Medium risk	The risk is unlikely to result in a major issue, however, if it did the impact would be significant or serious . This risk is relatively less significant than a High risk however it needs to be closely monitored within timely management action/controls to ensure it does not escalate.
Low risk	The risk is very unlikely to occur and the impact will be minor or moderate at worst. Risk will be managed by seeking control improvements where practical and / or monitoring and reviewing at regular intervals

Risks are also given a score. Scores of 1-4 are low risks, scores of 6-9 are medium risks and scores 12-16 are high risk. Providing a score as well as a risk level allows the variations within risk levels to be more clearly stated.

Impact/severity

Major (4)	Low (4)	Medium (8)	High (12)	High (16)
Substantial (3)	Low (3)	Medium (6)	Medium (9)	High (12)
Moderate (2)	Low (2)	Low (4)	Medium (6)	Medium (8)
Minor (1)	Low (1)	Low (2)	Low (3)	Low (4)
	Unlikely (1)	Possible (2)	Likely (3)	Almost certain (4)

Likelihood

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SUBJECT: PUBLIC SERVICES OMBUDSMAN FOR WALES ANNUAL LETTER 2022/23

MEETING: GOVERNANCE AND AUDIT COMMITTEE

DATE: 4 DECEMBER 2023

DIVISION/WARDS AFFECTED: ALL

1. PURPOSE:

The purpose is to fulfil the expectation of the Public Services Ombudsman for Wales that their report is brought to the attention of Governance and Audit Committee and Cabinet.

2. RECOMMENDATIONS:

2.1 Governance and Audit Committee note the content of the Public Sector Ombudsman for Wales (PSOW) annual letter (Appendix 1) and advise the Ombudsman of any considerations and recommendations that are made as a result.

2.2 That the authority continues to engage with the PSOW complaints standards work, access training for staff and provide the PSOW with complaints data. We have also fully implemented the PSOW's model complaints policy.

3. KEY ISSUES:

3.1 The Public Sector Ombudsman for Wales sends every Council an annual letter which provides a summary of the complaints received and investigated. This compares the number of complaints against the local authority which were received and investigated by the PSOW during 2022/23, with the local authority average during the same period.

3.2 The PSOW annual letter provides:

- a breakdown of the number of complaints about the local authority broken down into subject categories.
- shows the complaint outcomes for the local authority and the volume and proportion that each outcome represents for the local authority.
- the numbers and percentages of cases received in which an intervention has occurred.
- a breakdown of all Code of Conduct complaint outcomes against councillors.
- a breakdown of all Code of Conduct complaint outcomes against town or community councils.

3.3 The PSOW received 23 complaints about Monmouthshire County Council. This is 3 more than they received in the previous year. They did not investigate any complaints although they intervened in one complaint where an early resolution was agreed. Comparisons are shown below, noting that the categories used by the commissioner differ between years.

Complaints received by subject: (PSOW definition)	Complaints Received	
	22//23	21/22
Adult Social Services	2	1
Children Social Services	3	6
Complaints handling	3	3
Environment and Environmental health	2	2
Finance and Taxation	0	1
Housing	2	1
Planning and Building Control	5	6
Roads and transport	4	0
Community Facilities, Recreation & Leisure	0	0
Covid 19	0	0
Other	2	0

PSOW Comparison of complaint outcomes

Local Authority	Out of Jurisdiction	Premature	Other cases closed after initial consideration	Early resolution/voluntary settlement	Discontinued	Other report – not upheld	Other report – upheld in whole or in part	Public interest reports
Monmouthshire	5	10	6	1	0	0	0	0

There was one complaint where the PSOW intervened and an early resolution sought and agreed.

Code of Conduct complaints

There was one complaint that was discontinued.

Town/Community Council Code of Conduct complaints

There was 5 complaints where it was decided not to investigate.

3.4 This report and the PSOW Annual letter 2022/23 will also be presented to the Standards Committee.

4 EQUALITY AND FUTURE GENERATIONS EVALUATION (INCLUDES SOCIAL JUSTICE, SAFEGUARDING AND CORPORATE PARENTING):

This report provides feedback information from the Public Services Ombudsman for Wales. The report does not seek to divert from the Council's corporate priorities and the continued delivery of the wide range of services provided through the Council to the public. As the report deals solely with feedback information, a Future Generations and Equality Impact Assessment is not considered appropriate in this instance.

5 OPTIONS APPRAISAL

This section is not relevant as the work of the Public Services Ombudsman for Wales is outside of our control.

6 EVALUATION CRITERIA

We will continue to work with the Public Services Ombudsman for Wales office to resolve as many issues as possible at an early stage and monitor the number of complaints the Public Services Ombudsman for Wales receives and deals with.

7 REASONS:

- 7.1 The Public Services Ombudsman for Wales (PSOW) role is to consider complaints about public services providers in Wales and to consider complaints that members of local authorities have broken the Code of Conduct. The PSOW has requested that Cabinet considers the complaints that the PSOW has received.

8 RESOURCE IMPLICATIONS:

There are currently no extra resource costs identified.

9 CONSULTEES:

Strategic Leadership Team
Cabinet

10 BACKGROUND PAPERS:

Appendix 1: The Public Services Ombudsman for Wales Annual letter 2022/23

11 AUTHOR:

Annette Evans, Customer Relations Manager


12 CONTACT DETAILS:

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E-mail: annetteevans@monmouthshire.gov.uk



Ask for: Communications

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Date: 17 August 2023

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Cllr. Mary Ann Brocklesby
Monmouthshire County Council
By Email only: maryannbrocklesby@monmouthshire.gov.uk

Annual Letter 2022/23

Dear Councillor Brocklesby

I am pleased to provide you with the Annual letter (2022/23) for Monmouthshire County Council which deals with complaints relating to maladministration and service failure, complaints relating to alleged breaches of the Code of Conduct for Councillors and the actions being taken to improve public services.

This letter coincides with my Annual Report – “[A year of change – a year of challenge](#)” – a sentiment which will no doubt resonate with public bodies across Wales. My office has seen another increase in the number of people asking for our help – up 3% overall compared to the previous year, and my office now receives double the number of cases we received a decade ago.

In the last year, I have met with public bodies across Wales – speaking about our casework, our recommendations, and our proactive powers. The current climate will continue to provide challenges for public services, but I am grateful for the positive and productive way in which local authorities continue to engage with my office.

1,020 complaints were referred to us regarding local authorities last year - a reduction of 11% compared to the previous year. During this period, we intervened in (upheld, settled or resolved at an early stage) 13% of local authority complaints.

We received fewer Code of Conduct complaints in 22/23 compared to the previous year, relating to both Principal Councils and Town and Community Councils. My role is such that I do not make final findings about breaches of the Code of Conduct. Instead, where investigations find the most serious concerns, these are referred to the Standards Committee of the relevant local authority, or the

Adjudication Panel for Wales. In 2022/23, the Ombudsman made 12 such referrals – a welcome reduction from 20 last year.

Supporting improvement of public services

Despite the challenges of last year, we have pushed forward with our proactive improvement work and launched a new Service Quality process to ensure we deliver the standards we expect.

Last year, we began work on our second wider Own Initiative investigation – this time looking into carers assessments within local authorities. This investigation will take place throughout the coming year, and we look forward to sharing our findings with all local authorities – not just those involved in the investigation.

The Complaints Standards Authority (CSA) continued its work with public bodies in Wales last year, with more than 50 public bodies now operating our model policy. We've also now provided more than 400 training sessions since we started, with local authorities, in September 2020.

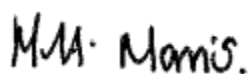
We continued our work to publish complaints statistics into a second year, with data now published twice a year. This data allows us to see information with greater context – for example, last year 12% of Monmouthshire County Council's complaints were referred to PSOW.

I would encourage Monmouthshire County Council, and specifically your Audit and Governance Committee, to use this data to better understand your performance on complaints and consider how well good complaints handling is embedded throughout the Authority.

Further to this letter can I ask that your Council takes the following actions:

- Present my Annual Letter to the Cabinet and to the Governance and Audit Committee at the next available opportunity and notify me of when these meetings will take place.
- Continue to engage with our Complaints Standards work, accessing training for your staff, fully implementing the model policy, and providing accurate and timely complaints data.
- Inform me of the outcome of the Council's considerations and proposed actions on the above matters at the earliest opportunity.

Yours sincerely,



Michelle Morris
Public Services Ombudsman

cc. Paul Matthews, Chief Executive, Monmouthshire County Council.
By Email only: paulmatthews@monmouthshire.gov.uk



Factsheet

Appendix A - Complaints Received

Local Authority	Complaints Received	Received per 1000 residents
Blaenau Gwent County Borough Council	16	0.24
Bridgend County Borough Council	55	0.38
Caerphilly County Borough Council	49	0.28
Cardiff Council*	142	0.39
Carmarthenshire County Council	53	0.28
Ceredigion County Council	35	0.49
Conwy County Borough Council	31	0.27
Denbighshire County Council	32	0.33
Flintshire County Council	65	0.42
Cyngor Gwynedd	36	0.31
Isle of Anglesey County Council	25	0.36
Merthyr Tydfil County Borough Council	17	0.29
Monmouthshire County Council	23	0.25
Neath Port Talbot Council	39	0.27
Newport City Council	42	0.26
Pembrokeshire County Council	44	0.36
Powys County Council	38	0.29
Rhondda Cynon Taf County Borough Council**	54	0.23
Swansea Council	94	0.39
Torfaen County Borough Council	16	0.17
Vale of Glamorgan Council	49	0.37
Wrexham County Borough Council	65	0.48
Total	1020	0.33
* inc 9 Rent Smart Wales		
** inc 2 South Wales Parking Group		



Appendix B - Received by Subject

Monmouthshire County Council	Complaints Received	% share
Adult Social Services	2	9%
Benefits Administration	0	0%
Children's Social Services	3	13%
Community Facilities, Recreation and Leisure	0	0%
Complaints Handling	3	13%
Covid19	0	0%
Education	0	0%
Environment and Environmental Health	2	9%
Finance and Taxation	0	0%
Housing	2	9%
Licensing	0	0%
Planning and Building Control	5	22%
Roads and Transport	4	17%
Various Other	2	9%
Total	23	



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Appendix C - Complaint Outcomes (* denotes intervention)

Monmouthshire County Council		% Share
Out of Jurisdiction	5	23%
Premature	10	45%
Other cases closed after initial consideration	6	27%
Early Resolution/ voluntary settlement*	1	5%
Discontinued	0	0%
Other Reports - Not Upheld	0	0%
Other Reports Upheld*	0	0%
Public Interest Reports*	0	0%
Special Interest Reports*	0	0%
Total	22	



Appendix D - Cases with PSOW Intervention

	No. of interventions	No. of closures	% of interventions
Blaenau Gwent County Borough Council	0	16	0%
Bridgend County Borough Council	5	57	9%
Caerphilly County Borough Council	6	52	12%
Cardiff Council	25	145	17%
Cardiff Council - Rent Smart Wales	1	9	11%
Carmarthenshire County Council	7	60	12%
Ceredigion County Council	13	44	30%
Conwy County Borough Council	5	35	14%
Denbighshire County Council	2	33	6%
Flintshire County Council	5	70	7%
Cyngor Gwynedd	5	33	15%
Isle of Anglesey County Council	5	25	20%
Merthyr Tydfil County Borough Council	1	18	6%
Monmouthshire County Council	1	22	5%
Neath Port Talbot Council	7	38	18%
Newport City Council	8	48	17%
Pembrokeshire County Council	3	45	7%
Powys County Council	8	44	18%
Rhondda Cynon Taf County Borough Council	2	54	4%
Rhondda Cynon Taf County Borough Council - South Wales Parking Group	0	2	0%
Swansea Council	10	99	10%
Torfaen County Borough Council	1	17	6%
Vale of Glamorgan Council	15	53	28%
Wrexham County Borough Council	6	67	9%
Total	141	1086	13%



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Appendix E - Code of Conduct Complaints

Monmouthshire County Council

Decision not to investigate	0
Discontinued	1
No evidence of breach	0
No action necessary	0
Refer to Adjudication Panel	0
Refer to Standards Committee	0
Total	1

Investigations
Page 51

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Rydym yn hapus i dderbyn ac
ymateb i ohebiaeth yn y Gymraeg.

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We are happy to accept and respond
to correspondence in Welsh.



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Appendix F - Town/Community Council Code of Complaints

Town/Community Council	Decision not to investigate	Investigations				Total
		Discontinued	No evidence of breach	No action necessary	Refer to Adjudication Panel	
Caerwent Community Council	0	0	0	0	0	0
Llantilio Pertholey Community Council	1	0	0	0	0	1
Monmouth Town Council	4	0	0	0	0	4



Information Sheet

Appendix A shows the number of complaints received by PSOW for all Local Authorities in 2022/23. These complaints are contextualised by the population of each authority.

Appendix B shows the categorisation of each complaint received, and what proportion of received complaints represents for the Local Authority.

Appendix C shows outcomes of the complaints which PSOW closed for the Local Authority in 2022/23. This table shows both the volume, and the proportion that each outcome represents for the Local Authority.

Appendix D shows Intervention Rates for all Local Authorities in 2022/23. An intervention is categorised by either an upheld complaint (either public interest or non-public interest), an early resolution, or a voluntary settlement.

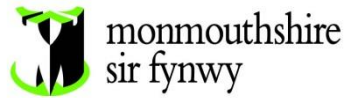
Appendix E shows the outcomes of Code Of Conduct complaints closed by PSOW related to Local Authority in 2022/23. This table shows both the volume, and the proportion that each outcome represents for the Local Authority.

Appendix F shows the outcomes of Code of Conduct complaints closed by PSOW related to Town and Community Councils in the Local Authority's area in 2022/23. This table shows both the volume, and the proportion that each outcome represents for each Town or Community Council.

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We are happy to accept and respond
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SUBJECT:	Regulation of Investigatory Powers Act 2000 (RIPA)
MEETING:	Governance and Audit Committee
DATE OF REPORT:	4 December 2023
DIVISION/WARDS AFFECTED:	All

1. PURPOSE

- 1.1 This annual report provides details of the use by the Council of surveillance powers regulated by the Regulation of Investigatory Powers Act 2000 for financial years 2020/2021, 2021/2022 and 2022/2023.

2. RECOMMENDATIONS

- 2.1 Committee is recommended to receive this report and note its contents, and make any observations or recommendations it considers appropriate.

3. KEY ISSUES

- 3.1 Local authorities carry out investigations for a variety of regulatory services. In carrying out these duties, they have general powers to conduct surveillance of individuals suspected of committing criminal offences.
- 3.2 The Regulation of Investigatory Powers Act 2000 (RIPA) regulates the use of certain surveillance powers, including:
- Directed Surveillance (covert surveillance conducted as part of a specific investigation likely to result in obtaining private information about an individual);
 - Use of Covert Human Intelligence Sources (CHIS), and
 - Access to communications data (e.g. details of subscribers to telephone numbers or email accounts).
- 3.3 These powers are seldom used by the Council. However it is important that when they are used, the Council has sufficient oversight of its activities to ensure that any considered use is compliant with the subject's human rights, in particular Article 8 of the European Convention of Human Rights (right to privacy).
- 3.4 The Home Office publishes national Codes of Practice on the use of RIPA-regulated surveillance powers by public authorities. The Council must have regard to the relevant Code of Practice whenever exercising powers covered by RIPA. In addition, the Investigatory Powers Commissioners' Office (IPCO) conducts periodic inspections of all public authorities to ensure compliance with RIPA and the Codes of Practice.
- 3.5 The Council has adopted its own Policy to advise officers on RIPA obligations and to regulate any use of these powers.
- 3.6 Day to day oversight of the Council's internal compliance with RIPA rests with the RIPA Senior Responsible Officer (SRO) who also acts as the main source of legal advice to regulatory officers and keeps the Council's Policy up to date.
- 3.7 Under the Council's RIPA Policy, the use of any surveillance powers must first be approved by a suitably trained Authorising Officer. There is currently one such Authorising Officer at the Council. If the Authorising Officer gives approval, then an application must be made to the Magistrates

Court for independent judicial approval before the activity takes place (the Office for Communications Data Authorisations gives judicial approval in respect of accessing communications data). Any authorisations issued must also be internally reviewed and cancelled when no longer required.

- 3.8 The Home Office Code of Practice for Covert Surveillance and Property Interference recommends that elected members of a local authority should review the use of RIPA and set the policy at least once a year. In MCC, responsibility for member oversight of RIPA is divided between Cabinet and the Governance and Audit Committee.
- 3.9 Cabinet is the appropriate body to conduct an annual review and approval of the Policy as well as receive the outcome of any IPCO inspection. The Policy was last reviewed and approved by Cabinet on 8 November 2023. The policy is therefore up to date in that respect. The last inspection was carried out in 2023 and confirmed that the Council is compliant with RIPA and its Policy. Copies of the newly reviewed and approved Policy and inspection outcome letter are attached for reference at Appendices 1 and 2 respectively.
- 3.10 The Governance and Audit Committee is the appropriate body to receive an annual report from the SRO on the use of RIPA-regulated powers.
- 3.9 The Council made the following use of surveillance powers under RIPA in financial years 2020/2021, 2021/2022 and 2022/2023:

2020/2021

Nil

2021/2022

Nil

2022/2023

1 authorisation for directed surveillance, relating to an investigation for potential offences of underage sale of 'vapes' and the supply for psychoactive effect of Nitrous Oxide canisters.

4. EQUALITY AND FUTURE GENERATIONS EVALUATION (INCLUDES SOCIAL JUSTICE, SAFEGUARDING AND CORPORATE PARENTING)

- 4.1 Given the nature of this report no implications have been identified.

5. RESOURCE IMPLICATIONS

- 5.1 Nil

6. CONSULTEES

- 6.1 SLT
David Jones (Head of Public Protection/RIPA Authorising Officer)

7. AUTHOR

- 7.1 Geraint Edwards
Acting SRO
Solicitor



monmouthshire
sir fynwy

**REGULATION OF INVESTIGATORY
POWERS ACT 2000**

**Directed Surveillance, Use of Covert Human
Intelligence Sources and Obtaining
Communications Data**

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PART I – INTRODUCTION

1. Parliament creates laws within which society in all its guises operates. Those laws apply to local authorities (LAs), some of which enable functions, some of which bound functions, and some of which are delegated to them to enact and enforce.
2. The Regulation of Investigatory Powers Act 2000 (as amended) is designed to create the correct tension between allowing LAs to operate in an effective way on behalf of their citizens, and limit that operation with respect to Human Rights (HR), legality and fairness.
3. RIPA covers the acquisition and disclosure of communications data (Part I of RIPA); the carrying out of surveillance and use of covert human intelligence sources (CHIS) (Part II); and the investigation of electronic data protected by encryption (Part III).
4. In accordance with sections 28 and 29 of the Act, Monmouthshire County Council (MCC) is empowered to make use of the practices set out in Part II. It would potentially do so as part of its duty to tackle illegal practice. Examples of which may include fly-tipping, selling counterfeit or dangerous goods, animal cruelty, fraud, underage sales of alcohol – the list is non-exhaustive. MMC is permitted to:
 - a. carry out directed surveillance. This is the planned, covert ‘watching’ of someone or somewhere that is likely to result in the obtaining of information about a person;
 - b. carry out CHIS activity. This is the establishment of a relationship that is used covertly to obtain or disclose information.
5. In fulfilling its functions, MCC must comply with a framework of legislation that includes:
 - a. Human Rights Act 1998;
 - b. Regulation of Investigatory Powers Act 2000;
 - c. Protection of Freedoms Act 2012;
 - d. Investigatory Powers Act 2016;
 - e. Data Protection Act 2018;and the broad sweep of criminal legislation and common law.
6. This policy talks to the use of surveillance and covert human intelligence sources (CHIS) MCC is not permitted to carry out:
 - a. intrusive surveillance;
 - b. entry onto or interference with property;
 - c. interception of communications;
 - d. any other surveillance-related activity not covered by Part II of RIPA.

AIM

7. This policy sets out to:

- a. explain what RIPA is and how MCC interacts with it;
- b. explain what MCC can and can't do;
- c. explain the legislative framework within which MCC must operate;
- d. signpost the reader to the correct guidance relating to RIPA:
- e. signpost the reader to the most up-to-date resources, templates and materials to be used whenever RIPA applies;
- f. set out who within MCC may make use of the practices that RIPA bounds;
- g. establish a resource and framework so that the whole authority is informed about RIPA;
- h. prevent inadvertent use of techniques or practices that should fall under RIPA;
- i. ensure that MCC operates legally.

And it should be read in conjunction with the RIPA Authorisation, Training and Review plan that is maintained by the SRO in the RIPA [site](#). This subservient document is a 'live' document that sets out who is suitably trained and experienced to carry out activities covered by this policy, a training schedule and a programme of review and consultation.

THE LAW

8. MCC has a duty across myriad different areas of operation and legislation to apply and uphold the law. This could be the protection of children, animals, the consumer, visitors, vulnerable people – in short, everyone.
9. Some of this duty is exercised under the prescription of the law. So it may be that a criminal law requires MCC to take an individual to Court, family law requires MCC to intervene in the case of a neglected child, licensing law requires MCC to consider the suitability of an individual to drive a taxi – again, this is very broad.
10. And then there is the use of the law in establishing information that will ultimately determine what the outcome of the above will be. It may be witnesses appearing in Court to explain how an animal came to be injured, it may be that access to an establishment is approved in order to assess the hygiene of food preparation – you are hopefully getting a feel for how this works.
11. But these duties and powers are bounded. Each in turn will have systems and processes that prevent misuse or abuse. And there are the overarching facets of Human Rights legislation that always apply:
 - a. Article 6 ensures that when a legal process is pursued that the individual has a fair trial with all that this entails regarding the obtaining of evidence and opportunity to challenge it;
 - b. Article 8 establishes the individual's right to a private life, and so limits the extent the State, in any guise, may impinge on that and creates a just tension between the exercise of MCC's duties with consideration for the individual;
 - c. Article 14 ensures that in the pursuit of MCC's duties that it does it in a non-discriminatory way.

12. And this is where RIPA, IPA and the framework of Commissioners, training, guidance and inspection come in: to ensure that MCC is capable of carrying out its functions and duties, but that it does it a bounded and legal way.
13. The essence of finding the right balance between these different pieces of legislation is acting in a way that is **necessary** and **proportionate**. Those 2 watchwords must sit at the heart of how the reader of this policy acts, embellished by correct training, knowledge and communication.

ROLES AND RESPONSIBILITIES

14. Elected Members. Cabinet is responsible for any RIPA policy and Governance and Audit Committee will be presented annually with an update regarding RIPA within the organisation. This is not just to monitor when it has been used but also to ensure that there is no inadvertent activity relating to RIPA powers.
15. Senior Responsible Officer (SRO). The SRO is the Chief Officer Law and Governance. In circumstances where they are unable to carry out the role of SRO, the outgoing or current chief officer can with the agreement of the Chief Executive appoint a solicitor in the Legal team with suitable knowledge and experience in RIPA to serve as acting SRO. The SRO is responsible for:
 - a. the integrity of the RIPA framework and process within MCC;
 - b. compliance with Part II of RIPA and with the relevant codes;
 - c. engagement with the Commissioners and inspectors when they conduct their inspections, and where necessary, overseeing the implementation of any post inspection action plans recommended or approved by a Commissioner;
 - d. overseeing and co-ordinating the:
 - i. submission of annual reports detailing RIPA activity and oversight to the Audit and Governance Committee;
 - ii. the identification of issues in the oversight process, to enable analysis of issues, evidencing results, and ensuring subsequent feedback into the RIPA training, to ensure these matters are corporately addressed;
 - iii. training needs of the organisation;
 - iv. dissemination of guidance and information as required.
16. Authorising Officers (AOs). They are responsible for:
 - a. receiving and assessing **all** applications to carry out RIPA activity;
 - b. applying the criminal threshold established by the 2012 Act when considering such applications;
 - c. the application of all legislative and Home Office guidance tests and best practice in support of assessing what is reasonable and proportionate in all the circumstances;
 - d. providing guidance and oversight to professional applicants in all RIPA related matters;

- e. working with the SRO to establish training requirements and carry out reviews as required;
 - f. as with applications, applying the same rigour and standards to the tracking and completion of all reviews, renewals and cancellations.
17. Gatekeepers. These are suitably experienced and senior line managers capable of assisting Professional Applicants in the drafting of applications such that the AO can be satisfied that due diligence has taken place.
 18. Professional Applicant. This is the Officer with the most knowledge of any particular matter who is best placed to complete the application and subsequent review, renewal or cancellation paperwork for submission to the AO and the Court when required.
 17. Magistrates' Court. Judicial approval for the use of LA powers is required in accordance with the legislation.
 18. Investigatory Powers Commissioner's Office. The team overseen by the independent Commissioner dedicated to fulfilling the duties placed upon them by the 2016 Act. For the purposes of MCC this is the organisation that will inspect and recommend best practice, collate statistical data and, when required, take action relating to bad practice.

REFERENCE

19. Various pieces of legislation are listed above and there is also a considerable amount of guidance and best practice available, as well as training materials accumulated over time, past inspection reports, template documents and the central record of authorisations.
20. All of these documents can be found at the MCC RIPA [site](#) for those granted access. It is imperative that full use of the information and documentation available in this resource is made every time an operation is considered, or when it is suspected that there may be activity underway that may classify as RIPA activity inadvertently.
21. No one should be carrying out any RIPA activity without first making use of the Home Office Codes of Practice on Covert Surveillance and Property Interference (August 2018) and Covert Human Intelligence Sources (December 2022).

PART II – SURVEILLANCE

22. Part II of RIPA sets out a regulatory framework for the use of covert investigatory techniques by LAs.

WHAT IS SURVEILLANCE?

23. Surveillance is:
- a. monitoring, observing or listening to persons, their movements, their conversations or their other activities or communications;
 - b. recording anything monitored, observed or listened to in the course of surveillance;
 - c. by or with the assistance of appropriate surveillance device(s).

It can be overt or covert.

24. Overt Surveillance. This is generally how MCC will carry out investigations. There will be nothing secretive or clandestine and, in many ways, Officers will be behaving in the same way as a normal member of the public (e.g. in the case of most test purchases), or will be going about Council business openly (e.g. a market inspector walking through markets).
25. Similarly, surveillance will be overt if the subject has been told it will happen (e.g. where a noisemaker is warned (preferably in writing) that noise will be recorded if the noise continues, or where an entertainment licence is issued subject to conditions, and the licensee is told that Officers may visit without notice or identifying themselves to the owner/proprietor to check that the conditions are being met).

COVERT SURVEILLANCE

26. Covert Surveillance is defined in s26(9)(a) RIPA:

“Surveillance is covert if, and only if, it is carried out in a manner that is calculated to ensure that persons who are subject to the surveillance are unaware that it is or may be taking place”.

27. General observation forms part of the duties of many enforcement officers. Such observation may involve the use of equipment or merely reinforce normal sensory perceptions, such as binoculars or the use of cameras, where this does not involve systematic surveillance of an individual. It forms part of the everyday functions of law enforcement or other public bodies. This low level activity will not usually be regulated under the provisions of RIPA.
28. The installation of CCTV cameras for the purpose of generally observing activity in a particular area is not surveillance which requires authorisation. Members of the public are aware that such systems are in use, for their own protection and to prevent crime.
29. However, an authorisation may be required if a CCTV camera is to be used for surveillance as part of a specific investigation or operation otherwise than as an immediate reaction to events. In such circumstances either the Council or the police may give the necessary authorisation. If an authorisation is given by the police then a record of the authorisation will be kept to ensure any surveillance is within its terms.
30. Part II of RIPA applies to the following conduct:

- a. directed surveillance;
- b. intrusive surveillance; and
- c. the conduct and use of covert human intelligence sources (CHIS).

DIRECTED SURVEILLANCE

31. Directed Surveillance is defined in s26(2) RIPA:

“...surveillance is directed for the purposes of this Part if it is covert but not intrusive and is undertaken:

- (a) for the purposes of a specific investigation or a specific operation;*
- (b) in such a manner as is likely to result in the obtaining of private information about a person (whether or not one specifically identified for the purposes of the investigation or operation); and*
- (c) otherwise than by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation under this Part to be sought for the carrying out of the surveillance.”*

32. Where it is anticipated that mobile surveillance will be an integral part of any directed surveillance operation Authorising Officers must be satisfied that it is necessary and the need is proportionate to the investigation being undertaken. Mobile surveillance is a specialist skill and should, at all times, be assessed for risks to health and safety of operatives engaged in this activity. At no times should road traffic laws or regulations be ignored by officers engaged in mobile surveillance. Due regard should be afforded to the driving and surveillance skills of operatives engaged in such activity. Under no circumstances will officers engage in high-speed pursuit of vehicles involved in Directed Surveillance operations.
33. Where surveillance using airborne crafts or devices, for example helicopters or unmanned aircraft (colloquially known as ‘drones’), is planned, this could amount to direct (or even intrusive) surveillance and there will be a requirement to determine whether a surveillance authorisation is appropriate. In considering whether the surveillance should be regarded as covert, account should be taken of the reduced visibility of a craft or device at altitude.
34. The general observation duties of many law enforcement officers and other public authorities do not require authorisation under the 2000 Act, whether covert or overt. Such general observation duties frequently form part of the legislative functions of public authorities, as opposed to the pre-planned surveillance of a specific person or group of people.
35. Private information includes any information relating to a person’s private or family life. Private information should be taken generally to include any aspect of a person’s private or personal relationship with others, including family and professional or business relationships.
36. Whilst a person may have a reduced expectation of privacy when in a public place, covert surveillance of that person’s activities in public may still result in the obtaining of private information. This is likely to be the case where that person has a reasonable expectation of privacy even though acting in public and where a record is being made by a public authority of that person’s activities for future consideration or analysis.

INTRUSIVE SURVEILLANCE AND CONFIDENTIAL INFORMATION

37. Intrusive Surveillance is defined in s26(3) RIPA:

“Subject to subsections (4) to (6), surveillance is intrusive for the purposes of this Part if, and only if, it is covert surveillance that—

- (a) is carried out in relation to anything taking place on any residential premises or in any private vehicle; and*
- (b) involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device.”*

38. MCC cannot, by law, conduct intrusive surveillance. It also cannot obtain information of a confidential nature such as a client speaking to their lawyer, journalistic material and relevant personal information.

INTERFERENCE WITH PROPERTY

39. This is covered by other legislation and MCC is not permitted to undertake this activity.

PART III – COVERT HUMAN INTELLIGENCE SOURCE

40. This is defined in s26(8) of RIPA:

“...a person is a covert human intelligence source if –

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

41. The concept of “covertness” is very similar to that used in relation to directed surveillance. Here, however, it is used at 2 stages, both of which must be met for an authorisation to be required:

- a. the covert purpose of the relationship;
- b. the covert actions of obtaining or providing access to information and of disclosing such information.

42. If a person has a relationship with another person which is not established or maintained for a covert purpose, the fact that he or she does in fact covertly disclose information to the local authority will not require an authorisation and that person will not be a CHIS.

43. There is no use of CHIS merely because a person offers information to the local authority that may be material to the investigation of an offence, but there would be if the authority asks the person to obtain further information. It is important that what starts out as a member of the public offering information does not evolve into a CHIS relationship by MCC seeking to develop a relationship to gather more information.

44. A CHIS is somebody who is concealing or misrepresenting their true identity or purpose in order to covertly gather or provide access to information from the target. Examples of a CHIS include a private investigator pretending to live on a housing estate to gather evidence of drug dealing or an informant who gives information to Trading Standards about illegal business practices in a factory or shop.

USING A CHIS

45. Section 29(5) sets out a number of definitive requirements:

- a. there will at all times be an officer within the local authority who will have day to day responsibility for dealing with the source on behalf of the authority, and for the source’s security and welfare;
- b. there will at all times be another officer within the local authority who will have general oversight of the use made of the source;
- c. there will at all times be an officer within the local authority who has responsibility for maintaining a record of the use made of the source;
- d. the records relating to the source maintained by the local authority will always contain particulars of all matters specified by the Secretary of State in Regulations. (The current

regulations are The Regulation of Investigatory Powers (Source Records) Regulations 2000). These particulars are:

- i. the identity of the source;
 - ii. the identity, where known, used by the source;
 - iii. any relevant investigating authority other than the authority maintaining the records;
 - iv. the means by which the source is referred to within each relevant investigating authority;
 - v. any other significant information connected with the security and welfare of the source;
 - vi. any confirmation made by a person granting or renewing an authorisation for the conduct or use of a source that the information in paragraph iv. has been considered and that any identified risks to the security and welfare of the source have where appropriate been properly explained to and understood by the source;
 - vii. the date when, and the circumstances in which, the source was recruited;
 - viii. the identities of the persons who, in relation to the source, are discharging or have discharged the functions mentioned in section 29(5)(a) to (c) of the Act (see bullet points above) or in any order made by the Secretary of State under section 29(2)(c);
 - ix. the periods during which those persons have discharged those responsibilities;
 - x. the tasks given to the source and the demands made of him in relation to his activities as a source;
 - xi. all contacts or communications between the source and a person acting on behalf of any relevant investigating authority;
 - xii. the information obtained by each relevant investigating authority by the conduct or use of the source;
 - xiii. any dissemination by that authority of information obtained in that way; and
 - xiv. in the case of a source who is not an undercover operative, every payment, benefit or reward and every offer of a payment, benefit or reward that is made or provided by or on behalf of any relevant investigating authority in respect of the source's activities for the benefit of that or any other relevant investigating authority;
- e. that records maintained by the local authority that disclose the identity of the source will not be available to persons except to the extent that there is a need for access to them to be made available to those persons.

46. These requirements make it very unlikely that an investigation could involve the use of a CHIS without there having been prior planning within the investigating department/section. It is important to realise that it may well be a member of staff of the department and, indeed, an investigator him or herself, who becomes the source, depending on the manner of working

used. It is not only persons outside the employ of the local authority who may be used as a source.

47. MCC will not carry out any operations involving a CHIS without specific and up to date training of those officers involved with any of the duties set out at para 45.
48. No CHIS is to engage in any criminal activity in the course of their operation.

JUVENILES AND VULNERABLE PERSONS AS CHIS

49. This is governed by the Regulation of Investigatory Powers (Juveniles) Order 2000. A person under 16 cannot be used as a CHIS if the relationship that would be covertly used is between the juvenile and his/her parent or person with parental responsibility for him/her. (Whether or not a person who is not a parent has parental responsibility for a child may only be determined by having sight of documentation, e.g. a court order providing for that person to have parental responsibility. Further, a person may have parental responsibility for a juvenile, even though they no longer live together).
50. The Regulations also provide in the case of a source under 16 that there is at all times a person within the local authority responsible for ensuring that an appropriate adult (parent or guardian, any other person who has assumed responsibility for the juvenile's welfare, or where there are no such persons, any responsible person over 18 who is not a member or employee of the local authority – therefore a local authority social worker is not eligible to act as appropriate adult) is present at meetings between the juvenile source and any person representing the investigating authority.
51. Where the source is under 18, authorisation may not be granted or renewed unless there has been made or updated a risk assessment sufficient to demonstrate that the nature and magnitude of any risk of physical injury or psychological distress to the juvenile arising out of his or her use as a source has been identified and evaluated.
52. The Authorising Officer must have considered the risk assessment and satisfied him/herself that the risks are justified and have been properly explained to and understood by the source. The Authorising Officer must also be clear whether or not the covert relationship is between the juvenile and any relative, guardian or person who has assumed responsibility for his/her welfare and, if it is, has given particular consideration to whether the authorisation is justified ("necessary" and "proportionate") in the light of that fact.
53. A vulnerable person is or may be in need of community care services by reason of mental or other disability, age, illness or is unable to take care of themselves or unable to protect themselves against significant harm or exploitation.
54. Any such individual should only be used as a source in the most exceptional circumstances and the SRO must be involved in any decision relating to this category of person.

CHIS RECORD KEEPING

55. Records should be kept as prescribed by the Code of Practice. Where a source wearing or carrying a surveillance device is invited into residential premises or a private vehicle and records activity taking place inside those premises or vehicle, authorisation for use of that covert source should be obtained in the usual way.
56. The source should not use an invitation into residential premises or private vehicle as a means of installing equipment. If equipment is to be used other than in the presence of the covert

source, an intrusive surveillance authorisation is necessary which cannot be granted by the local authority.

PART IV – COMMUNICATIONS DATA AND NON-RIPA SURVEILLANCE

COMMUNICATIONS DATA

57. MCC is permitted to acquire information defined as “communications data”. This includes subscriber data and service data but not “traffic data” as defined by the Act. MCC is a member of the National Anti Fraud Network (NAFN).
58. Communications data is “*information held by communication service providers (e.g. telecom, internet and postal companies) relating to the communication made by their customers*”. This includes information relating to the use of a communications service but does not include the contents of the communication itself.
59. Communication data is broadly split into 3 categories:
- a. s21(4)(a) - “traffic data”; This is usually data generated by the Communications Service Provider (CSP) in the process of delivering a communication. (Not included in Local Authority authorisation);
 - b. s21(4)(b) - server use or billing information - the use made of the service by any person i.e. itemised telephone records; e.g. numbers called, itemised connection records, itemised timing and duration of services, connection, disconnection and reconnection information; provision and use of forwarding/redirecting services; conference calls call messages call waiting & call barring information;
 - c. s21(4)(c) - postal records including records of registered, recorded or special delivery postal items.
60. In the context of telephone data, it would include the telephone numbers of the phone from which the call was made and the number of the phone receiving the call. It also includes the date, time, duration and place of the call. It does not include the actual content of the telephone call.
61. In respect of e-mail and the internet, it would include details of the subscriber account. It would also include dates and times when e-mails have been sent or received. The content of the e-mails are excluded from communications data. The websites are included but not the actual web pages that have been viewed.
62. In the context of a letter, it would include the information on the envelope but not the contents of the letter. The information will therefore include the name and address of the recipient and the postmark showing when and where the letter was sent. It might also contain details of the address of the sender if recorded on the envelope.
63. MCC is not permitted to carry out the interception of any communications data. There may be situations where either the caller or receiver consents to the recording of the telephone conversation and, in such circumstances a warrant is not required. This type of surveillance will require authorisation, either as directed covert surveillance, or, if it is a CHIS making or receiving the telephone conversation (usually an officer working “undercover”), as a CHIS authorisation.
64. Where as part of an already authorised directed covert surveillance or CHIS a telephone conversation is to be recorded by the officer or the CHIS then no special or additional authorisation is required.

65. The recording of telephone conversations for purposes not connected with investigatory powers does not fall within the RIPA legislative framework.

EMPLOYEES

66. s1 of RIPA does not apply to Local Authorities except where the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 - SI2000/2699 applies. The legislative framework permits the Council without further authorisation to lawfully intercept its employees' e-mail or telephone communications and monitor their internet access for the purposes of prevention or detection of crime or the detection of unauthorised use of these systems.

NON-RIPA SURVEILLANCE

67. MCC may occasionally wish to undertake covert surveillance which is not regulated by RIPA. This would be an activity not considered a 'core' function, and instead a 'normal' function, ie. something common to all organisations such as the investigation of an employee moonlighting. The [2018 Guidance](#) relating to non-core functions should be consulted in this situation.
68. Similar mechanisms for activity which cannot be protected by the 2000 Act is encouraged. The human rights aspects must still be considered alongside legislation such as the Data Protection Act 2018 and guidance issued by the ICO.
69. An authorisation process provides a useful audit of decisions and actions. The process reflects that of directed surveillance, save for the Judicial approval.
70. Authorisation under RIPA affords a public authority a defence under s27 i.e. the activity is lawful for all purposes, provided an authorisation is in place, and the conduct of the officers is in accordance with the legislation. However, failure to obtain an authorisation does not make covert surveillance unlawful.
71. Section 80 of RIPA contains a general saving for lawful conduct. RIPA is a shield not a sword.

CCTV

72. Normal use of CCTV is governed by the [MCC CCTV Strategy](#) and associated documents.
73. CCTV only falls under the umbrella of RIPA when it is used in such a way to satisfy the tests set out in the introduction, ie. a pre-planned use of directed surveillance for the purpose of obtaining private information.

PART V – SOCIAL MEDIA

74. It is important to be aware that use of social media in an investigation could, depending on how it is used and the type of information likely to be obtained, constitute covert activity that requires authorisation under RIPA.
75. Generally, researching 'open source' material would not require authorisation, but return visits in order to build up a profile could change the position – this may constitute directed surveillance depending on the circumstances. Examples of 'open source' material, are materials you could view on social media without becoming a friend, subscriber or follower.
76. The internet may be used for intelligence gathering and/or as a surveillance tool. Where online monitoring or investigation is conducted covertly for the purpose of a specific investigation or operation and is likely to result in the obtaining of private information about a person or group, an authorisation for directed surveillance should be considered. Where a person acting on behalf of a public authority is intending to engage with others online without disclosing his or her identity, a CHIS authorisation may be needed.
77. Where it is intended to access a social media or other online account to which the Council has been given access with the consent of the owner, the Council will still need to consider whether the account(s) may contain information about others who have not given their consent. If there is a likelihood of obtaining private information about others, the need for a directed surveillance authorisation should be considered, particularly (though not exclusively) where it is intended to monitor the account going forward.
78. Officers should not use false personae (eg. a false Facebook profile or X (formerly Twitter) handle) to disguise their online activities. False personae should not be used for a covert purpose without authorisation.
79. In order to determine whether an authorisation should be sought for accessing information on a website as part of a covert investigation or operation, it is necessary to look at the intended purpose and scope of the online activity it is proposed to undertake. The guidance at paras 3.10-3.17¹ and 4.29-4.35² in the Home Office Codes of Practice should be consulted. Factors that should be considered in establishing whether a directed surveillance authorisation is required include whether:
- a. the investigation or research is directed towards an individual or organisation;
 - b. it is likely to result in obtaining private information about a person or group of people;
 - c. it is likely to involve visiting internet sites to build up an intelligence picture or profile;
 - d. the information obtained will be recorded and retained;
 - e. the information is likely to provide an observer with a pattern of lifestyle;
 - f. the information is being combined with other sources of information or intelligence, which amounts to information relating to a person's private life;
 - g. the investigation or research is part of an ongoing piece of work involving repeated viewing of the subject(s);

¹ Home Office Code of Practice on Covert Surveillance and Property Interference, August 2018

² Home Office Code of Practice on Covert Human Intelligence Sources, December 2022

- h. it is likely to involve identifying and recording information about third parties, such as friends and family members of the subject of interest, or information posted by third parties, that may include private information and therefore constitute collateral intrusion into the privacy of these third parties.

PART VI – SAFEGUARDS, ERRORS, COMPLAINTS AND DATA RETENTION

SAFEGUARDS

80. Material obtained through surveillance may include private information, legally privileged information, or other confidential material including journalistic material and constituency business of Members of Parliament.
81. Dissemination, copying and retention of material must be limited to the minimum necessary for authorised purposes. Something is necessary for the authorised purposes where the material:
- a. is (or is likely to become) necessary for the surveillance purposes set out in the legislation;
 - b. is necessary for facilitating the carrying out of the functions of the Council under the surveillance legislation;
 - c. is necessary for facilitating the carrying out of any functions of the Commissioner or Investigatory Powers Tribunal;
 - d. is necessary for the purposes of legal proceedings;
 - e. is necessary for the performance of the functions of any person by or under any enactment.
82. When information obtained under a surveillance authorisation is used evidentially, the Council should be able to demonstrate how the evidence has been obtained, to the extent required by the relevant rules of evidence and disclosure.
83. Regular reviews of all authorisations should be undertaken during their lifetime to assess the necessity and proportionality of the conduct. Particular attention should be given to the need to review authorisations frequently where they involve a high level of intrusion into private life or significant collateral intrusion, or particularly sensitive information is likely to be obtained.
84. The Council will likely need to share information obtained through surveillance within the Council and between the Council and other public bodies where legally necessary. This must be limited to the minimum necessary. If a summary of the information will be sufficient to meet necessity, no more than that should be disclosed.
85. When sharing this type of information MCC will ensure that it has appropriate safeguards and agreements in place to ensure compliance.
86. Information and material obtained through surveillance must only be copied to the extent necessary. Copying includes direct copies as well as summaries and extracts.
87. All information and material obtained through surveillance and all copies, extracts or summaries must be stored securely to minimise the risk of theft or loss. Only those with appropriate legal authority and security clearance should be able to access the information.
88. Confidential personal information is information held in confidence concerning an individual (whether living or dead) who can be identified from it, and relates to his or her physical or mental health or to spiritual counselling. Such information is held in confidence if it is held subject to an express or implied undertaking to hold it in confidence or it is subject to a restriction on disclosure or any legal obligation of confidentiality. For example, confidential

personal information might include consultations between a health professional and a patient, or information from a patient's medical records.

89. Confidential constituent information is information relating to communications between a Member of Parliament and a constituent in respect of constituency business. Again, such information is held in confidence if it is held subject to an express or implied undertaking to hold it in confidence or it is subject to a restriction on disclosure or an obligation of confidentiality contained in existing legislation.
90. The reasons for acquiring information of this type must be clearly documented and the specific necessity and proportionality of doing so must be carefully considered.
91. Material which has been identified as confidential personal or confidential constituent information should be retained only where it is necessary and proportionate to do so in accordance with the authorised purpose or where otherwise required by law. It should be securely destroyed when its retention is no longer needed for those purposes.
92. Where confidential personal or constituent information is retained or disseminated to an outside body, reasonable steps should be taken to mark the information as confidential. Where there is any doubt as to the lawfulness of the proposed handling or dissemination of confidential information, advice should be sought from the SRO.
93. Any case where confidential personal or constituent information is retained, other than for the purpose of destruction, and disseminated should be reported to the Investigatory Powers Commissioner as soon as reasonably practicable, and any material which has been retained should be made available to the Commissioner on request so that the Commissioner can consider whether the correct procedures and considerations have been applied.
94. There is a strong public interest in protecting a free press and freedom of expression in a democratic society, including the willingness of sources to provide information to journalists in confidence.
95. Confidential journalistic material includes material acquired or created for the purposes of journalism and held subject to an undertaking to hold it in confidence, as well as communications resulting in information being acquired for the purposes of journalism and held subject to such an undertaking. Confidentiality can continue to attach to confidential journalistic material when it is sent to or held by a person who is neither the journalist nor the source (for example, a news editor who has been sent some notes by a journalist).
96. An application for authorisation where the purpose, or one of the purposes, of the authorisation is to authorise the acquisition of material of this type must contain a statement in those terms. The person to whom the application is made may issue the authorisation only if they consider that appropriate safeguards relating to the handling, retention, use and disclosure of the material are in place.
97. When this type of material is retained and disseminated to an outside body, reasonable steps should be taken to mark it as confidential. Where there is any doubt as to the lawfulness of the proposed handling or dissemination of such information, advice should be sought from a legal adviser to the Council before any further dissemination of the content takes place.
98. Where this type of information has been obtained and retained, other than for the purposes of destruction, the matter should be reported to the Commissioner as soon as reasonably practicable.
99. The acquisition of material subject to legal privilege is particularly sensitive and is

therefore subject to additional safeguards which provide for three different circumstances where legally privileged items will or may be obtained. They are:

- a. where privileged material is intentionally sought;
 - b. where privileged material is likely to be obtained;
 - c. where the purpose or one of the purposes is to obtain items that, if they were not generated or held with the intention of furthering a criminal purpose, would be subject to privilege.
100. The 2010 Legal Consultations Order provides that surveillance that is carried out in relation to anything taking place on so much of any premises specified in article 3(2) of the Order as is, at any time during the surveillance, used for the purposes of 'legal consultations', shall be treated for the purposes of Part II of RIPA as intrusive surveillance. As a result, such authorisations are not available to the Council.
101. Where a lawyer, acting in this professional capacity, is the subject of surveillance, it is possible that a substantial proportion of any material which will or could be acquired will be subject to legal privilege. In addition to considering the applicability of the 2010 Legal Consultations Order, the Council will need to consider which of the three circumstances that apply when items subject to legal privilege will or may be obtained is relevant, and what processes should therefore be followed.
102. Any case involving lawyers' material should also be notified to the Commissioner during their next inspection, and any material which has been retained should be made available to the Commissioner on request.

ERRORS

103. Regular reviews of errors will be undertaken with a written record made of each review.
104. An error must be reported if it is a "relevant error", which is defined under section 231(9) of the IPA as being any error by MCC in complying with any requirements that are imposed on it by any enactment which are subject to review by a Judicial Commissioner. This would include compliance by public authorities with Part II of RIPA. Examples of relevant errors occurring would include circumstances where:
- a. surveillance or Covert Human Intelligence Source activity has taken place without lawful authority;
 - b. there has been a failure to adhere to the safeguards set out in the relevant statutory provisions and Codes.
105. All relevant errors made by the Council of which it is aware must be reported to the IPC as soon as reasonably practicable, and no later than 10 working days (or as agreed with the Commissioner). Where the full facts of the error cannot be ascertained within that time, an initial notification must be sent with an estimated timescale for the error being reported in full and an explanation of the steps being undertaken to establish the full facts of the error.
106. From the point at which the Council identifies that a relevant error may have occurred, it must take steps to confirm the fact of an error as quickly as it is reasonably practicable to do so. Where it is subsequently confirmed that an error has occurred and that error is notified to the Commissioner, the Council must also inform the Commissioner of when it was initially identified that an error may have taken place.

107. The report should include information on the cause of the error; the amount of surveillance conducted and material obtained or disclosed; any unintended collateral intrusion; any analysis or action taken; whether any material has been retained or destroyed; and a summary of the steps taken to prevent recurrence.
108. The IPC may issue guidance as necessary, including guidance on the format of error reports. The Council must have regard to any guidance on errors issued by the IPC.

SERIOUS ERRORS

109. If the IPC considers that the error is a serious error and that it is in the public interest for the person concerned to be informed of the error, they must inform them. An error is a serious error where it is considered to have caused significant prejudice or harm to the person concerned.
110. In deciding whether it is in the public interest for the person concerned to be informed of the error, the Commissioner must in particular consider:
 - a. the seriousness of the error and its effect on the person concerned;
 - b. the extent to which disclosing the error would be contrary to the public interest or prejudicial to:
 - i. national security;
 - ii. the prevention or detection of serious crime;
 - iii. the economic well-being of the United Kingdom;
 - iv. the continued discharge of the functions of any of the security and intelligence services.
111. Before making a decision, the Commissioner will ask MCC to make submissions on the matters concerned, and the Council must take all such steps as notified to help identify the subject of a serious error.
112. When informing a person of a serious error, the Commissioner must inform the person of any rights that the person may have to apply to the Investigatory Powers Tribunal, and provide such details of the error as the Commissioner considers to be necessary for the exercise of those rights.

BREACH OF RIPA

113. Evidence gathered where RIPA has not been complied with may not be admissible in Court and could lead to a challenge under Article 8 of the Human Rights Act.
114. Any perceived breach of this policy or the RIPA procedures should be reported to the Monitoring Officer in order to notify the Investigatory Powers Commissioner immediately.

COMPLAINTS

115. The Council will maintain the standards set out in this guidance and the current Codes of Practice. The Investigatory Powers Commissioner has responsibility for monitoring and reviewing the way the Council exercises the powers and duties conferred by the legislation.
116. Contravention of the RIPA or the IPA (and associated legislation) may be reported to MCC via the normal corporate complaints policy here: <https://www.monmouthshire.gov.uk/feedback/>
117. Alternatively, you may contact the IPC directly at:
- Investigatory Powers Commissioner's Office
PO Box 29105
London
SW1V 1ZU
- Email: info@ipco.org.uk
Telephone: 0207 389 8999
118. Contravention of the Data Protection Act 2018 and/or GDPR may also be reported to the Information Commissioner.

DATA RETENTION

119. Information obtained as the result of any RIPA activity will be retained dependant on the nature of the information.
120. Any information obtained in error, that is collateral and unrelated to the aim, that accidentally goes beyond the scope of the authorisation given or is in breach of law will be destroyed immediately.
121. All other information will be retained for a period of 6 years either from a decision to not pursue any action, or the completion of any related evidential process (eg. a criminal Court case.)
122. This is in accordance with the MCC retention schedule at this [intranet link](#). It complies with the Limitation Act 1980 and aligned with the statute of limitation relating to any subsequent cases relating to a Tort and MCC's policy relating to casefiles.

PART VII – AUTHORISATION PROCESS

123. There is complexity and nuance throughout the process, both leading up to, during, and after any operation that involves RIPA. As such, this section is intended as the starting point for anyone involved in the process, but no one should act in isolation of the Home Office guidance and training materials contained in the MCC RIPA [site](#), and full use of the gatekeepers and Litigation Solicitor should be made.
124. All of the forms required for the different processes are available at the resource above, linked to the latest version online, and are not replicated here. A record of all activity will be maintained in the Central Record of Authorisations (CRA) that is held in the MCC RIPA [site](#). This will record the key details associated with each application but will not contain any personal information. The applications themselves will be retained by the applicant, and any information obtained from any operation will be retained as per the retention schedule set out in this document.

DIRECTED SURVEILLANCE

125. The Protection of Freedoms Act 2012 amended RIPA 2000 to the effect that authorisation of the use of certain covert powers, including the use of directed surveillance, will only have effect once an order approving the authorisation has been granted by a Magistrates' Court.
126. The assessment of necessity and proportionality throughout is key, and should be evident through the completion of all application/other forms, the consideration given by the AO and the presentation to the Court.
127. All applications for authorisation of Directed Surveillance must be in writing and record:
- a. the grounds on which authorisation is sought. For MCC this will be for the prevention and detection of crime and disorder only
 - b. an assessment of the Directed Surveillance Crime Threshold. Directed surveillance can only be authorised under RIPA to prevent or detect criminal offences that are either punishable, whether on summary conviction or indictment, by a maximum term of at least 6 months imprisonment or where the investigation is in regard to the underage sale of alcohol or tobacco (see below);
 - c. consideration of why the Directed Surveillance is proportionate to what it seeks to achieve;
 - d. what other options for the gathering of information have been considered and that Directed Surveillance is necessary;
 - e. the nature of the surveillance;
 - f. the identity or identities, where known, of those to be the subject of Directed Surveillance;
 - g. the action to be authorised and level of authority required;
 - h. an account of the investigation or operation;
 - i. an explanation of the information which it is desired to obtain as a result of the authorisation;

- j. any potential for collateral intrusion and why such intrusion is justified;
 - k. the likelihood of acquiring any confidential or privileged material, and the details of such material;
 - l. where the purposes include obtaining information subject to legal privilege, as an explanation as to why there are exceptional and compelling circumstances that make this necessary.
128. Where, at any point in an operation, the parameters of the original authorisation are likely to be exceeded, they must inform the applicant and the AO immediately, for example if the operation/investigation unexpectedly interferes with the privacy of individuals who are not the original subjects of the investigation or covered by the authorisation in some other way. Where the original authorisation is not sufficient separate authorisation is required.
129. The AO must satisfy themselves that the authorisation is necessary on particular grounds and that the surveillance is proportionate to what it seeks to achieve. It is important that sufficient weight is attached to considering whether the surveillance required is proportionate by:
- a. balancing the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence;
 - b. explaining how and why the methods adopted will cause the least possible intrusion on the subject and others;
 - c. considering whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result;
 - d. evidencing, as far as reasonably practicable, what other methods had been considered and why they were not implemented.
130. The AO must be able to produce evidence that the relevant issues have been considered for monitoring purposes, for example a note of the documents and information available to the officer at the time the authorisation is given, together with a note of the date and time authorisation was given. It is essential that the AO considers each request for an authorisation on its merits and a rubber stamping approach must never be used.
131. Particular consideration should be given to collateral intrusion on or interference with the privacy of persons other than the subject(s) of surveillance. Such collateral intrusion or interference would be a matter of greater concern in cases where there are special sensitivities, for example in cases of premises used by lawyers or for any form of medical or professional counselling or therapy.

JUDICIAL APPROVAL

132. Where an Authorising Officer has granted an authorisation (for Directed Surveillance), the authorisation is not to take effect until a Magistrates' Court has made an order approving the grant of the authorisation.
133. The Court will only give approval to the granting of an authorisation for Directed Surveillance if they are satisfied that:
- a. at the time the AO granted the authorisation, there were reasonable grounds for believing that the authorisation was necessary and that the surveillance being authorised was proportionate;

- b. the AO was a designated person for the purposes of s28 of RIPA;
 - c. the grant of the authorisation was not in breach of any restrictions imposed by virtue of s30(3) of RIPA;
 - d. any other conditions provided for by any Order were satisfied;
 - e. there remain reasonable grounds for believing that the necessary and proportionate tests are satisfied.
134. If a Magistrates' Court refuses to approve the grant of the authorisation, then it may make an order to quash that authorisation.
135. No activity permitted by the authorisation granted by the Authorising Officer may be undertaken until the approval of the Magistrates' Court of that authorisation has been obtained.
136. AOs must, as early in the process as possible, inform the SRO or Litigation Solicitor in order that arrangements for an application to be made by the Council's lawyers or an appropriate officer to the Magistrates Court for an order to approve the authorisation can be made.
137. The Court does not need to consider cancellations or internal reviews.
138. As a minimum, the Court is to be provided with a copy of the original RIPA authorisation form and the supporting documents setting out the case. This forms the basis of the application and should contain all information that is relied upon. Further, a partially completed judicial application/order form is required.

TIMELINE OF AN AUTHORISATION

139. A written authorisation for Directed Surveillance will cease to have effect at the end of a period of 3 months beginning with the day on which it took effect.
140. If at any time before an authorisation would cease to have effect, the AO considers it necessary for the authorisation to continue for the purpose for which it was given, he/she may approve a renewal in writing for a further period of 3 months, beginning with the day when the authorisation would have expired but for the renewal.
141. Authorisations may be renewed more than once, provided they continue to meet the criteria for authorisation.
142. All requests for the renewal of an authorisation for Directed Surveillance must record:
- a. whether this is the first renewal or every occasion on which the authorisation has been renewed previously;
 - b. the information required in the original request for an authorisation plus:
 - i. any significant changes to the information in the previous authorisation;
 - ii. why it is necessary to continue with the surveillance;
 - iii. the content and value to the investigation or operation of the information so far obtained by the surveillance;

- iv. an estimate of the length of time the surveillance will continue to be necessary.
143. Renewals of authorisations will also be subject to approval by the Magistrates' Court. The AO must therefore advise the SRO immediately when they are minded to grant a renewal.
 144. Applications for renewals should not be made until shortly before the original authorisation period is due to expire but officers must take account of factors which may delay the renewal process (eg. intervening weekends or the availability of the AO).
 145. The AO must cancel an authorisation if he/she is satisfied that the Directed Surveillance or the conduct of the CHIS no longer meets the criteria for authorisation. When cancelling an authorisation, an Authorising Officer must ensure that proper arrangements have been made for the activity's discontinuance, including the removal of technical equipment, and directions for the management of the product. Further, where necessary and practicable, the safety and welfare of the CHIS should continue to be taken into account after the authorisation has been cancelled, and risk assessments maintained. In the context of CHIS the AO will want to satisfy themselves that all welfare matters are addressed, and should make appropriate comment in their written commentary.
 146. Authorisations for Directed Surveillance, and any subsequent renewals and cancellations, are subject to review by the Government appointed Investigatory Powers Commissioner.
 147. AOs will review all Directed Surveillance and CHIS applications and authorisations that they have granted regularly to assess whether they remain necessary and proportionate. The results of a review should be recorded on the appropriate form, and kept in the central record of authorisations. The AO should determine how often the review should take place. This should be done as frequently as is considered necessary and practicable, but not later than once a month following the date of authorisation; sooner where the surveillance provides access to confidential material or involves collateral intrusion.
 148. Reviews must record:
 - a. whether this is the first renewal or every occasion on which the authorisation has been renewed previously;
 - b. any significant changes to the information in the previous authorisation;
 - c. why it is necessary to continue with the surveillance;
 - d. the content and value to the investigation or operation of the information so far obtained by the surveillance;
 - e. an estimate of the length of time the surveillance will continue to be necessary.
 149. All documentation regarding Directed Surveillance should be treated as confidential and should be kept accordingly.
 150. Each Service Department undertaking Directed Surveillance must ensure that adequate arrangements are in place for the secure handling, storage and destruction of material obtained through the use of covert surveillance.
 151. There is nothing in the 2000 Act which prevents results obtained through the proper use of the authorisation procedures from being used on other Council Department Investigations. However, the disclosure outside of surveillance results obtained by means of covert surveillance and its use for other purposes should be authorised only in the most exceptional circumstances.

Before doing so the AO must be satisfied that the release of material outside of the Council, complies with and meets Human Rights Act requirements.

152. Quarterly review meetings will be held between the SRO, AOs and Gatekeepers at which document retention will be discussed.
153. All refusals to grant authority to undertake Directed Surveillance must be recorded and retained for inspection.

CHIS

154. Much of the above process is applicable to CHIS applications as well. The following should be read in conjunction with the process for DS accordingly.
155. The standards of necessity and proportionality are the same, taking into account the added human complexity and increased chance of collateral intrusion in a CHIS operation. A risk assessment for collateral inclusion is therefore required.
156. The approach taken by the AO is the same, as is the need for a Magistrates' Court to approve any operation.
157. The AO must be satisfied that arrangements exist for the proper oversight and management of the source that satisfy the requirements of s29(5) of the Act and such other requirements as may be imposed by order made by the Secretary of State.
158. There are important welfare provisions attached to any CHIS authorisation. They should fall broadly into line with the approach that MCC takes for the welfare of its staff, recognising the duty of care to covert sources and the importance of a risk with regard to the welfare of the source. The risks to the source may not only be physical but also psychological.
159. The source is not to engage in criminal activity (excluding activity that would be criminal but rendered lawful by authority under the Act – eg. the lawful interception of communications).
160. Conduct of the CHIS:
 - a. any conduct that is comprised in any such activities as are specified or described in the authorisation; and
 - b. any conduct by or in relation to the source specified or described in the authorisation; and
 - c. which is carried out for the purposes of or in connection with the investigation or operation that is specified or described.
161. Court approval is required as per above. Approval of an authorisation for use of a CHIS will only be forthcoming if the Court is satisfied that:
 - a. at the time the AO granted the authorisation, there were reasonable grounds for believing that the authorisation was necessary;
 - b. the activity being authorised was proportionate;
 - c. arrangements existed that satisfied section s29(5);
 - d. the AO was a designated person for the purposes of s29;

- e. the grant of the authorisation was not in breach of any restrictions imposed by virtue of section 29(7)(a) or 30(3);
 - f. any other conditions provided for by any Order were satisfied; and
 - g. there remain reasonable grounds for believing that the necessary and proportionate tests are satisfied and that any other requirements provided for by Order are satisfied.
162. Records should be kept as prescribed by the Code of Practice. Where a source wearing or carrying a surveillance device is invited into residential premises or a private vehicle and records activity taking place inside those premises or vehicle, authorisation for use of that covert source should be obtained in the usual way.
163. The source should not use an invitation into residential premises or private vehicle as a means of installing equipment. If equipment is to be used other than in the presence of the covert source, an intrusive surveillance authorisation is necessary which cannot be granted by a local authority.
164. Regular reviews of authorisations should be undertaken by the AO to assess whether it remains necessary and proportionate to use a CHIS and whether the authorisation remains justified. The review should include:
- a. the use made of the CHIS during the period authorised;
 - b. the tasks given to the CHIS;
 - c. the information obtained from the CHIS;
 - d. if appropriate to the AO's remit, the reasons why executive action is not possible at this stage.
165. In each case, unless specified by the Secretary of State or Investigatory Powers Commissioner, the AO should determine how often a review should take place. This should be as frequently as is considered necessary and proportionate, but should not prevent reviews being conducted in response to changing circumstances.
166. In the event that there are any significant and substantive changes to the nature of the operation during the currency of the authorisation, the AO should consider whether it is necessary to apply for a new authorisation.
167. CHIS authorisations can be renewed on more than one occasion if necessary and provided that they continue to meet the criteria for authorisation. Before an authorising officer renews an authorisation, they must be satisfied that a review has been carried out of the use of a CHIS and that the results have been considered.
168. All renewals are subject to authorisation by the Court in the established way.
169. When deciding if the relevant source is authorised as part of the 'same investigation or operation' in calculating the period of total or accrued deployment or cumulative authorisation periods, the following should be considered:
- a. common subject or subjects of the investigation or operation;
 - b. the nature and details of relationships established in previous or corresponding relevant investigations or operations;

- c. whether or not the current investigation is a development of or recommencement to previous periods of authorisation, which may include a focus on the same crime group or individuals;
 - d. previous activity by the relevant source that has a bearing by way of subject, locality, environment or other consistent factors should be considered in calculating the period;
 - e. the career history of the relevant source.
170. All applications for the renewal of an authorisation should record:
- a. whether this is the first renewal or every occasion on which the authorisation has been renewed previously;
 - b. any significant changes to the information in the initial application;
 - c. the reasons why it is necessary for the authorisation to continue;
 - d. the use made of the CHIS in the period since the grant or, as the case may be, latest renewal of the authorisation;
 - e. the tasks given to the CHIS during that period and the information obtained from the use or conduct of the CHIS; and
 - f. the results of regular reviews of the use of the CHIS.
171. The AO who granted or renewed the authorisation must cancel it satisfied that the use or conduct of the CHIS no longer satisfies the criteria for authorisation, or that arrangements for the CHIS's case no longer satisfy the requirements described in s29.
172. Where the AO is no longer available, this duty will fall to the person who has taken over the role that AO has been assigned to.
173. Where necessary and practicable, the safety and welfare of the CHIS should continue to be taken into account after the authorisation has been cancelled, and risk assessments should be maintained. The AO will wish to satisfy themselves that all welfare matters are addressed, and should make appropriate comment in their written commentary.
174. An authorisation for a CHIS will cease to have effect at the end of a period of 12 months beginning with the day it took effect. However, an authorisation concerning a juvenile CHIS will cease to have effect after 4 months from the date it took effect.

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IPCO

Investigatory Powers Commissioner's Office

PO Box 29105, London
SW1V 1ZU

Mr Paul Matthews
Chief Executive
Monmouthshire County Council
County Hall
Y Rhad yr
Usk
Monmouthshire
NP15 1GA

7th September 2023

Dear Mr Matthews,

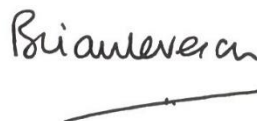
Thank you for providing IPCO with your response to the matters identified at points 1 to 10 of my Secretariat's letter dated 5th July 2023. I am also grateful for the subsequent engagement between my Inspector, Graham Wright and Mr Geraint Edwards (Solicitor) as they followed up on the information you had provided.

I am satisfied that your reply provides your assurance that ongoing compliance with RIPA 2000 and the Investigatory Powers Act 2016 will be maintained. As such, your Council will not require further inspection this year.

I would ask that you ensure that the key compliance issues continue to receive the necessary internal governance and oversight through yourself and your Senior Responsible Officer: policy refreshes; annual updates to your Elected Members; ongoing training and awareness raising; internal compliance monitoring by lead managers within their business areas; and the retention, review and destruction (RRD) of any product obtained through the use of covert powers (Records and Product Management in accordance with the Safeguards Chapters of the relevant Codes of Practice).

Your Council will be due its next inspection in 2026, but please do not hesitate to contact my Office if IPCO can be of assistance in the intervening period.

Yours sincerely,



The Rt. Hon. Sir Brian Leveson
The Investigatory Powers Commissioner

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GOVERNANCE & AUDIT COMMITTEE WORK PROGRAMME IN LINE WITH ITS TERMS OF REFERENCE

Review and scrutinise the authority's financial affairs and make reports and recommendations in relation to them

- Review the financial statements prepared by the authority
- To receive and approve the Council's Annual Statement of Accounts in accordance with the Accounts and Audit Regulations

	29 June 23	27 July 23	20 Sept 23	19 Oct 23	04 Dec 23	11 Jan 24	22 Feb 24	08 Apr 24
2022/23 MCC Statement of Accounts Head of Finance – Jonathan Davies			✓ Draft			✓ Final		
Statement of Accounts 2022/23 - Charitable Trust Funds Head of Finance – Jonathan Davies		✓ Draft				✓ Final		
Treasury Report Head of Finance – Jonathan Davies		✓ 22/23 Outturn ✓ 23/24 Q1			✓ 23/24 Q2	✓ 23/24 Q3		
Capital & Treasury Strategy Head of Finance – Jonathan Davies							✓	
Financial Strategy Head of Finance – Jon Davies					✓			

Review and assess the risk management, internal control, performance assessment and corporate governance arrangements of the authority and make reports and recommendations to the authority on the adequacy and effectiveness of those arrangements

- To consider the draft annual self-assessment performance and recommend changes as required ahead of it being considered by Council.

- To consider the report of the (independent) panel performance assessment is also to be made available to the Governance & Audit Committee. A panel performance assessment is to take place at least once during the period between two consecutive ordinary elections of councillors to the Council

	29 June 23	27 July 23	20 Sept 23	19 Oct 23	04 Dec 23	11 Jan 24	22 Feb 24	08 Apr 24
Annual Governance Statement 2022 Audit Manager – Jan Furtek		✓ Draft						
Freedom of Information (FOI) & Data Protection Act (DPA) Breaches & Date Subject Access Request (DSARs) Head of Information Security & Technology – Sian Hayward	✓					✓		
Draft Self Assessment Report Performance & Data Insight Manager – Richard Jones			✓ Draft					
Governance & Audit Committee Annual Report - 2022/23 Chair of Governance & Audit Committee – Andrew Blackmore		✓						
Anti Bribery Risk Assessment Deputy Chief Executive – Peter Davies				✓				
Audit Wales Work Programme: Council Progress update Performance & Data Insight Manager – Richard Jones				✓				✓
Annual Performance Review of Investment Committee Development Manager - Nick Keyse					✓			

Cyber security Head of Information Security & Technology – Sian Hayward						✓		
Feedback on Collaboration & Partnership arrangements Performance & Data Insight Manager – Richard Jones / Audit Manager – Jan Furtek			✓					
Self Assessment of Performance Management arrangements Performance & Data Insight Manager – Richard Jones							✓	
Effectiveness of Strategic Risk Management Framework Performance & Data Insight Manager – Richard Jones					✓			✓
Asset Management Strategy Development Manager - Nick Keyse					✓			

Review and assess the authority's ability to handle complaints effectively make reports and recommendations in relation to the authority's ability to handle complaints effectively								
	29 June 23	27 July 23	20 Sept 23	19 Oct 23	04 Dec 23	11 Jan 24	22 Feb 24	08 Apr 24
The Ombudsman's Annual Letter (2022/23) Customer Relations Manager – Annette Evans					✓			

Whole Authority annual complaints report Customer Relations Manager – Annette Evans							✓	
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Oversee the authority's internal audit arrangements

	29 June 23	27 July 23	20 Sept 23	19 Oct 23	04 Dec 23	11 Jan 24	22 Feb 24	08 Apr 24
Internal Audit Operational Plan 2023/24 Audit Manager – Jan Furtek	✓ Draft	✓ Final						
Internal Audit Annual Report 2022/23 Audit Manager – Jan Furtek	✓							
Internal Audit Revised Opinions Audit Manager – Jan Furtek	✓							
Internal Audit quarterly progress reports Audit Manager – Jan Furtek		✓		✓			✓	
CPR Exemptions upto 30 th September 2023 Audit Manager – Jan Furtek				✓				
Implementation of Internal Audit agreed recommendations Audit Manager – Jan Furtek								✓
Internal Audit Plan and Annual Report for Shared Resource Service (SRS) – Torfaen CBC IA Team	✓							

Oversee the authority's external audit arrangements

	29 June 23	27 July 23	20 Sept 23	19 Oct 23	04 Dec 23	11 Jan 24	22 Feb 24	08 Apr 24
Annual Audit Plan 22-23 Audit Wales Manager – Rachel Freitag		✓						✓
Annual Audit Plan 22-23 - Welsh Church Funds Audit Wales Manager – Rachel Freitag				✓				
Annual Grants report Audit Wales Manager – Rachel Freitag				✓				
ISA260 Response to Accounts Audit Wales Manager – Rachel Freitag / Head of Finance – Jonathan Davies						✓		
ISA 260 or equivalent for Trust Funds Audit Wales Manager – Rachel Freitag / Head of Finance – Jonathan Davies						✓		
Audit Wales Well-Being Objective Setting Review Audit Wales – Charlotte Owen			✓					
Audit Wales Performance Data Review – Audit Wales – Charlotte Owen						✓		
Audit Wales Digital Review Audit Wales – Charlotte Owen						✓		
Audit Wales Work Programme and timetable Quarter 1 update Audit Wales				✓				

Public Document Pack Agenda Item 10

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Governance and Audit Committee held
at County Hall, The Rhadyr, Usk, NP15 1GA on Thursday, 19th October, 2023 at 2.00 pm

PRESENT: Andrew Blackmore (Chairman)
County Councillor Tony Easson, (Vice Chairman)

Lay Members: C. Prosser, M. Veale, R. Guest,

County Councillor: Sara Burch, John Crook, Tony Easson,
David Jones, Malcolm Lane, Phil Murphy, Peter Strong and
Ann Webb

OFFICERS IN ATTENDANCE:

Peter Davies	Deputy Chief Executive and Chief Officer, Resources
Jan Furtek	Audit Manager
Wendy Barnard	Democratic Services Officer
Charlotte Owen	Audit Wales Officer
Richard Jones	Performance and Data Insight Manager
Rachel Freitag	Audit Wales Officer
Hannah Carter	Performance Analyst

APOLOGIES:

None

1. Declarations of Interest

No declarations of interest were made.

2. Public Open Forum

No members of the public had requested to participate in the meeting.

3. To note the action list from the previous meeting

The action list from the previous meeting was noted:

<https://www.youtube.com/live/F1tl-spRWnc?si=ViAY1YXYDR0aJIXW&t=44>

1. Finance Team capacity: OPEN
2. People Strategy and Asset Management Strategy: OPEN
3. Whole Authority Complaints Report: OPEN
4. Strategic Risk Register: OPEN
5. Freedom of Information, Data Protection and Data Subject Access Requests:
 - a) Mandatory training: CLOSED
 - b) Policy Governance Arrangements OPEN
 - c) Corporate risk control policies: OPEN
6. Draft Operational Plan: OPEN
7. Governance and Audit Committee Self Assessment: CLOSED

MONMOUTHSHIRE COUNTY COUNCIL

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8. Annual Statement of Accounts, pension liability information: CLOSED
9. Draft Self-Assessment report: CLOSED

4. Counter Fraud, Corruption and Bribery Policy

The Counter Fraud, Corruption and Bribery Policy was presented by the Chief Internal Auditor.

<https://www.youtube.com/live/F1tl-spRWnc?si=GCpz2l-t4L9rnUF5&t=364>

ACTIONS:

1. Deputy Chief Executive to raise with the Head of HR, and report back accordingly:
 - i) How concerns are raised under the Whistle Blowing Policy and whether consideration will be given to receipt of concerns at independent board or other appropriate level, also:
 - ii) Taking into account the terms of reference of this committee, how best to report on instances of whistleblowing.
2. Deputy Chief Executive to circulate to the Committee The Auditor General for Wales' report 'Raising Our Game' – Tackling Fraud in Wales.
3. Chief Internal Auditor to add periodic updates to the Forward Work Programme.

As per the report recommendations, the Governance and Audit Committee provided comment before endorsing the revised Counter Fraud, Corruption and Bribery Policy for Cabinet approval.

County Councillor P. Murphy left the meeting at 14.26

5. Audit Wales Work Programme and timetable quarter 1 update

The Audit Wales Officers presented the Audit Wales Work programme and timetable Q1 update. Members were invited to make comments and ask questions.

https://www.youtube.com/live/F1tl-spRWnc?si=XhlduzvQ-gfx_uwz&t=1515

The report was noted.

6. Audit Wales Work Programme: Council Progress update

The Data Analyst presented the Council's Progress against the Audit Wales Work programme. Members were invited to make comments and ask questions.

<https://www.youtube.com/live/F1tl-spRWnc?si=G0V6ZfOtO6jQmBcE&t=2132>

ACTIONS:

1. Deputy Chief Executive to provide the Committee an update on work in progress on the in year deficit, and budget development in terms of the robustness of the process.

In line with the report recommendations:

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1. Members scrutinised the council's response to the Audit Wales work programme, and sought assurance that adequate progress is being made; and.
2. Noted the facility to refer any issues contained within Audit Wales national study to other committees for consideration where they identify there are findings of particular relevance to the council that need further scrutiny.

*Charlotte Owen left the meeting at 14.45
County Councillor A. Webb left the meeting at 14.50*

7. Audit Grants report

The Audit Wales Officer presented the Audit Wales Grants Report. Members were invited to make comments and ask questions.

<https://www.youtube.com/live/F1tl-spRWnc?si=XZ0WjuAjhtoMHnlt&t=2737>

The report was noted.

8. Annual Audit Plan 22-23 Welsh Church Funds

The Audit Wales Officer presented the Annual Audit Plan 2022-23 Welsh Church Funds. Members were invited to make comments and ask questions.

https://www.youtube.com/live/F1tl-spRWnc?si=n1a8xG8M_8WYbXT_&t=3006

The report was noted.

9. CPR Exemptions upto 30th September 2023

The Chief Internal Auditor presented the CPR Exemptions Report up to 30th September 2023. Members were invited to make comments and ask questions.

<https://www.youtube.com/live/F1tl-spRWnc?si=HB9kuDYiRws-AexZ&t=3182>

The report was noted. The Committee was unable to agree the recommendations at 2.1 and looks forward to improvements in the process in due course.

10. Internal Audit quarterly progress report

The Chief Internal Auditor presented the Internal Audit Quarterly Progress Report. Members were invited to make comments and ask questions.

<https://www.youtube.com/live/F1tl-spRWnc?si=ijWD-yVoyctlcJbb&t=3887>

As in the report recommendations:

1. The Committee considered and noted the audit opinions issued; and
2. Noted the progress made by the Section towards meeting the 2023/24 Operational Audit Plan and the Section's performance indicators at the 6-month stage of the financial year which are currently ahead of the profiled target.

County Councillor P. Murphy rejoined the meeting at 15.10

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11. **Governance and Audit Committee Forward Work Plan**

The Forward Work Plan was noted with the additions mentioned in the meeting.

<https://www.youtube.com/live/F1tl-spRWnc?si=O- BYyUJubXAd36J&t=4837>

12. **To confirm minutes of the previous meeting held on the 20th September 2023**

The minutes of the previous meeting were approved as an accurate record.

<https://www.youtube.com/live/F1tl-spRWnc?si=NmfzcNH8ig9pQuQW&t=4861>

13. **Date of Next meeting: 23rd November 2023**

The next meeting was moved to Monday 4th December 2023 at 2pm.

Meeting ended at 3.20 pm