YOU ARE HEREBY SUMMONED to attend a MEETING of BROMSGROVE DISTRICT COUNCIL to be held in the Council Chamber at The Council House, Burcot Lane, Bromsgrove at 6.00 p.m. on Wednesday, 16th July, 2008, when the business referred to below will be brought under consideration:-

The meeting will be opened with a prayer.

1. To receive apologies for absence

2. To confirm the accuracy of the minutes of the extraordinary meeting of the Council held on 30th May 2008 (Pages 1 - 6)

3. Declarations of Interest

   (Members are reminded that they need to keep their register of interest forms up to date)

4. To receive any announcements from the Chairman and/or Head of Paid Service

5. To receive any announcements from the Leader

6. Recommendations from the Cabinet (Pages 7 - 8)

To consider the recommendations from the meeting of the Cabinet held on 2nd July 2008 which include the following items:

   ➢ Amendment to the Constitution to permit any of the Council’s Boards to ask the Chief Executive to add an item of business to the agenda for any other Board
   ➢ New Improvement Plan 2008/09

(Members are asked to bring their copies of the Cabinet agenda to the Council meeting)
7. To receive the minutes of the meetings of the Cabinet held on 30th June and 2nd July 2008 (Pages 9 - 16)

8. Outstanding Questions on Notice

To deal with any questions on notice from Members of the Council which remain unanswered from the last ordinary meeting of the Council on 23rd April 2008, in the order in which they were received.

9. Questions on Notice

To deal with any questions on notice from Members of the Council, in the order in which they have been received.

10. Acquisition and Disclosure of Communications Data (Pages 17 - 48)

To consider the report of the Head of Legal, Equalities and Democratic Services

11. Planning Applications - Information Sheet for the Public (Pages 49 - 56)

To consider the report of the Head of Planning and Environment

12. Appointment of Independent Members to the Standards Committee (Pages 57 - 62)

To consider the report of the Head of Legal, Equalities and Democratic Services

13. Appointment of Parish Council Representatives to the Standards Committee

(a) To approve the appointment of Mr. J. Cypher and Mr. I. Hodgetts to serve as the Parish Council Representatives on the Standards Committee until July 2009

(b) To approve the appointment of Mr. S. Malek to serve as the Deputy Parish Council Representative on the Standards Committee until July 2009
14. **Appointments to Outside Bodies**

(a) **Worcestershire Local Access Forum**

To consider the appointment of a representative to serve on the Worcestershire Local Access Forum (term of office expires May 2009)

(b) **Bromsgrove District Twinning Association**

To consider the appointment of a representative to serve on the Bromsgrove District Twinning Association to fill a vacancy arising from the resignation of Councillor S. R. Colella (term of office expires May 2009)

(c) **West Midlands Local Government Association (WMLGA) /Regional Assembly Bodies**

To note the following ex-officio appointments:

- WMLGA Council Substitute Member
  Deputy Leader (Councillor Mrs. J. M. L. A. Griffiths)

- Regional Planning Partnership Substitute Member
  Portfolio Holder for Housing and Environment (Councillor P. J. Whittaker)

- Regional Housing Partnership Substitute Member
  Portfolio Holder for Planning Policy and Transportation (Councillor Mrs. J. Dyer M.B.E.)

15. **Motion - Green Waste**

To consider the following motion submitted by Councillor P. M. McDonald:-

“That a questionnaire be sent to every household in the District asking whether they agree with the Council’s decision to remove the Green Waste Collection – Yes or No.

The results be made public.”
16. **Motion - Leader of the Opposition**

To consider the following motion submitted by Councillor S. R. Peters:-

“As the Council is aware cross party working is a critical element in the effective administration of this Council, especially given our current status of voluntary engagement.

Part 25 of the Constitution defines the role expected from any person occupying the position of ‘Leader of the Opposition’.

Given that the current Leader of the Opposition is not fulfilling his role in accordance with the requirements of the Constitution, a role for which this Council provides him with an allowance, would the Chamber not agree that it is time that we insisted that he did.

It is therefore proposed

that the Council requires the Leader of the Opposition either to fulfil his roles and responsibilities as set out in this Council’s Constitution forthwith or that he is asked to resign.”

K. DICKS
Chief Executive

The Council House
Burcot Lane
BROMSGROVE
Worcestershire
B60 1AA

TO ALL MEMBERS OF THE BROMSGROVE DISTRICT COUNCIL

In Attendance: Mr. C. Williams, Director of Local Government Services, West Midlands Local Government Association

14/08 PRAYER

At the request of the Chairman, the Reverend Wendy Moore opened the meeting with a prayer.

15/08 ADJOURNMENT

Following a constitutional query raised by Councillor P. M. McDonald with regard to the covering report on the Appointment of Joint Chief Executive submitted in the name of the Leader (agenda item no. 7 refers), the Chairman announced that the meeting would be adjourned for five minutes whilst the matter was considered.

The meeting stood adjourned from 6.02 p.m. to 6.07 p.m.

Having re-convened, the Monitoring Officer advised Members that such a report was permitted under Council Procedure Rules.

16/08 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Mrs. M. Bunker, Mrs. A. E. Doyle, Mrs. J. M. L. A. Griffiths, D. Hancox, Dr. G. H. Lord, Ms. J. A. Marshall, E. J. Murray, W. R. Newnes and Mrs M. A. Sherrey J. P.

17/08 MINUTES

RESOLVED that the minutes of the Annual Meeting of the Council held on 7th May 2008 be approved as a correct record.
18/08 DECLARATIONS OF INTEREST

No declarations of interest were received.

19/08 RECOMMENDATIONS FROM THE CABINET MEETINGS HELD ON 4TH JUNE AND 30TH JUNE 2008

(i) CAPITAL PROGRAMME INCREASE – PLAY AREA AT BRIAR CLOSE, LICKEY END

RESOLVED that the Capital Programme for 2008/2009 be amended to include the sum of £28,000 in respect of the refurbishment/enhancement of the Briar Close play area on the basis set out in the report.

(ii) 2007/08 STATEMENT OF ACCOUNTS, FINANCIAL OUTFURN AND GOVERNANCE STATEMENT

RESOLVED:
(a) that the Financial Outturn position to 31st March 2008 be noted;
(b) that the Governance Statement be approved; and
(c) that the unaudited Statement of Accounts for the year ended 31st March 2008 be approved in accordance with the Accounts and Audit Regulations 2003 (amended 2006).

(iii) ANNUAL REPORT 2007/08

RESOLVED:
(a) that the significant improvement in performance in 2007/08 following a similar level of improvement in 2006/07 be noted; and
(b) that the Annual Report for the year ended 31st March 2008 be approved.

20/08 MINUTES OF THE MEETING OF THE CABINET HELD ON 4TH JUNE 2008

The minutes of the meeting of the Cabinet held on 4th June 2008 were received for information.

21/08 LOCAL GOVERNMENT ACT 1972 - EXCLUSION OF THE PUBLIC

Having been moved by Councillor R. Hollingworth and seconded by Councillor E. C. Tibby, the motion to exclude the public was challenged by Councillor P. M. McDonald. The Monitoring Officer referred to the three categories of exempt information contained within the report and advised that it was in the public interest to maintain the exemption on two grounds, firstly that the report contained personal information about an individual who had expressly requested that it should not enter the public domain and secondly that the report considered looking beyond a Joint Chief Executive, and such proposals would put at risk the posts of a number of employees of both Councils who had not been formally consulted on these proposals.
On a requisition under Council Procedure Rule 17.5 the following details of voting were recorded:


Against the motion: Councillors Mrs. C. M. McDonald, P. M. McDonald, S. P. Shannon and C. J. K. Wilson (4).

RESOLVED that under Section 100 I of the Local Government Act 1972, as amended, the public be excluded from the meeting during the consideration of the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Part I of Schedule 12A to the Act, as amended, the relevant paragraph of that part, in each case, being as set out below, and that it is in the public interest to do so:-

Minute No. 22/08 Paragraphs 1, 3 and 4

(Note: Mr. K. Dicks left the meeting prior to consideration of agenda item no. 7 regarding the Appointment of Joint Chief Executive).

22/08 APPOINTMENT OF JOINT CHIEF EXECUTIVE

Having been moved by Councillor R. Hollingworth and seconded by Councillor E. C. Tibby, it was

RESOLVED that the Council Procedure Rules be suspended to allow Mr. C. Williams (joint author of the Feasibility Study attached to the report) to address the Council at Members’ request and to answer Members’ questions.

In response to a query raised by Councillor P. M. McDonald, the Monitoring Officer advised that none of the other officers present needed to leave the meeting during the consideration of this item.

Recommendations 2.1.1 to 2.1.6 as set out in the report were moved by Councillor R. Hollingworth and seconded by Councillor Mrs. J. Dyer.

With the consent of Councillor Mrs. J. Dyer, Councillor R. Hollingworth proposed that the recommendation with regard to the sum to be released from balances to fund the work necessary to progress the more detailed business case for joint working be altered to read £40,000 instead of £30,000.

On a requisition under Council Procedure Rule 17.5, the following details of voting on the alteration were recorded:

For the alteration: Councillors A. N. Blagg, Dr. D. W. P. Booth, Miss D. H. Campbell, S. R. Colella, G. N. Denaro, Mrs. R. L. Dent, J. T. Duddy, Mrs. J.

Abstentions: Councillors Mrs. C. M. McDonald, P. M. McDonald, S. P. Shannon and C. J. K. Wilson (4).

Accordingly the Chairman declared the alteration carried.

On a requisition under Council Procedure Rule 17.5, the following details of voting on recommendations 2.1.1 to 2.1.6 (as altered) were recorded:


Against the recommendations: Councillors Mrs. C. M. McDonald, P. M. McDonald, S. P. Shannon and C. J. K. Wilson (4);

Abstention: Councillor S. R. Peters (1).

RESOLVED:
(a) that the Council agree to the principle of the appointment of a Joint Chief Executive between Redditch Borough Council and Bromsgrove District Council, subject to the agreement of both Councils on the basis outlined in the report effective from 1st August 2008 for a period of 12 months and subject to a six month review;
(b) that the Council delegate to the Head of Legal, Equalities and Democratic Services and the Head of Financial Services in consultation with the Leader the power to determine any detailed arrangements arising from this agreement in principle which are reasonably required to implement the decision;
(c) that the Council agree that from 1st August 2008 the remuneration for the post of Joint Chief Executive be increased by 15% and that the full costs be shared equally between the 2 authorities;
(d) that the Council agree to the appointment of Kevin Dicks as Acting Joint Chief Executive for Bromsgrove District Council and Redditch Borough Council effective from 1st August 2008 for a period of 12 months but with a review of progress being undertaken after 6 months;
(e) that the Council agree that these arrangements can be terminated by either party with a minimum of 3 months notice; and
(f) that the Council agree to the release of £40,000 from balances to fund the work necessary to progress the more detailed business case for joint working.

Councillor R. Hollingworth moved recommendation 2.1.7 as set out in the report and proposed that himself, Councillor M. J. A. Webb and Councillor Mrs. J. D. Luck as the representative of the opposition, serve on the proposed
Shared Services Board. These recommendations were seconded by Councillor Mrs. J. Dyer.

On a requisition under Council Procedure Rule 17.5, the following details of voting on these recommendations were recorded:


Against the recommendations: Councillors Mrs. C. M. McDonald, P. M. McDonald, S. P. Shannon and C. J. K. Wilson (4).

RESOLVED:
(a) that the Council agree that a Shared Services Board be established with 3 members from each authority (politically balanced) to oversee progress and that a further report be brought back to the Council as soon as practicably possible determining the detailed remit of this Group and any other proposed Governance arrangements; and
(b) that Councillors R. Hollingworth, M. J. A. Webb and Mrs. J. D. Luck as the representative of the opposition, be appointed to serve on the Shared Services Board.

The meeting closed at 8.10 p.m.

Chairman
1. CONCESSIONARY PARKING - RECOMMENDATION FROM SCRUTINY STEERING BOARD

Having approved a referral to the Performance Management Board of a scrutiny request received from a member of the public in relation to concessionary parking for the over 60's, the Cabinet has considered an amendment to the Constitution to allow any of the Council's boards to request that the Chief Executive add an item of business to the agenda of any other board. Such an amendment was deemed necessary as the mechanisms currently in place for referrals could result in delays being encountered, in addition to which the Chief Executive's involvement was seen to be a more democratic process than the Cabinet referral route.

It is therefore RECOMMENDED

that the Constitution be amended to permit any of the Council's boards to ask the Chief Executive to add an item of business to the agenda of any other board.

2. NEW IMPROVEMENT PLAN 2008-09

The Cabinet has given consideration to the Council's new Improvement Plan for 2008-09.

It is therefore RECOMMENDED

that the Improvement Plan 2008-09 be approved.
This page is intentionally left blank
BROMSGROVE DISTRICT COUNCIL

MEETING OF THE CABINET

MONDAY, 30TH JUNE 2008, AT 4.30 P.M.

PRESENT: Councillors R. Hollingworth (Leader), G. N. Denaro, Mrs. J. Dyer M.B.E., R. D. Smith, M. J. A. Webb and P. J. Whittaker

Officers: Mr. K. Dicks, Mr. H. Bennett, Mr. M. Bell, Mrs. C. Felton, Mr. D. Hammond, Ms. J. Pickering, Mr. J. Godwin and Ms. R. Cole.

14/08 APOLOGIES

Apologies for absence were received from Councillors Dr. D. W. P. Booth JP, Mrs. J. M. L. A. Griffiths and Mrs. M. A. Sherrey JP.

15/08 DECLARATIONS OF INTEREST

No declarations of interest were received.

16/08 2007/08 STATEMENT OF ACCOUNTS, FINANCIAL OUTTURN AND GOVERNANCE STATEMENT

Consideration was given to a report on financial information for the year ended 31st March 2008 including the Financial Outturn 2007/08, Statement of Accounts 2007/08 and the Governance Statement. Following discussion it was

RECOMMENDED:
(a) that the Financial Outturn position to 31st March 2008 be noted;
(b) that the Governance Statement be approved; and
(c) that the unaudited Statement of Accounts for the year ended 31st March 2008 be approved in accordance with the Accounts and Audit regulations 2003 (amended 2006)

17/08 ANNUAL REPORT 2007/08

The Cabinet considered the Council’s Annual Report for the year ended 31st March 2008. The improvement in performance over the past two years was acknowledged by Members.

RECOMMENDED:
(a) that the significant improvement in performance in 2007/08 following a similar level of improvement in 2006/07 be noted; and
(b) that the Annual Report for the year ended 31st March 2008 be approved.
The meeting closed at 5.00 p.m.

Chairman
BROMSGROVE DISTRICT COUNCIL

MEETING OF THE CABINET

WEDNESDAY, 2ND JULY 2008 AT 6.00 P.M.

PRESENT: Councillors R. Hollingworth (Leader), Dr. D. W. P. Booth JP, G. N. Denaro, Mrs. J. Dyer M.B.E. and R. D. Smith

Observers: Councillor S. R. Peters

Officers: Mr. K. Dicks, Mr. T. Beirne, Mr. P. Street, Mrs. C. Felton, Mr. D. Hammond, Mr. J. Godwin, Mr. A. Coel, Mr. K. Hirons, Mr. S. Martin and Ms. D. Parker-Jones

18/08 APOLOGIES

Apologies for absence were received from Councillors Mrs. J. M. L. A. Griffiths, Mrs. M. A. Sherrey JP, M. J. A. Webb and P. J. Whittaker.

19/08 DECLARATIONS OF INTEREST

No declarations of interest were received.

20/08 MINUTES

The minutes of the meetings of the Cabinet held on 4th June 2008 and 30th June 2008 were submitted.

RESOLVED that the minutes be approved as correct records.

21/08 AUDIT BOARD

The minutes of the meetings of the Audit Board held on 9th June 2008 and 25th June 2008 were submitted.

RESOLVED that, it being noted that the Recommendation contained at Minute No. 14/08 of the 25th June 2008 meeting (2007/08 Statement of Accounts and Governance Statement) had been dealt with at an Extraordinary Meeting of the Council held the previous evening, the minutes be noted.

22/08 PERFORMANCE MANAGEMENT BOARD

The minutes of the meeting of the Performance Management Board held on 17th June 2008 were submitted.

RESOLVED:
(a) that the minutes be noted: and
(b) that the recommendation contained at Minute No. 19/08 (Monthly Performance Report - revision of targets for local indicators relating to missed collections of household waste and recycled waste) be approved, and it be requested that future Monthly Performance Reports be updated to include details of the overall percentage of missed collections in comparison with the total number of collections undertaken, with the targets to be reviewed annually to ensure these were achievable.

23/08 SCRUTINY STEERING BOARD

The minutes of the meeting of the Scrutiny Steering Board held on 22nd May 2008 were submitted.

RESOLVED that, subject to it being noted that the recommendation contained at Minute No. 08/08 (concessionary parking for the over 60's) was being dealt with by way of a separate report at agenda item 7, the minutes be noted.

24/08 CONCESSIONARY PARKING - RECOMMENDATION FROM SCRUTINY STEERING BOARD

Further to Minute No. 8/08 (Work Programme) of the meeting of the Scrutiny Steering Board held on 22nd May 2008, consideration was given to a recommendation from the Board, following a request received from a member of the public, for the Performance Management Board to consider a report on concessionary parking for the over 60s.

An update to the Constitution was sought as it was noted that the mechanisms currently in place for requests from the Council's boards for items of business be added to the agenda of another board could result in delays being encountered, added to which it was felt more appropriate, in the interests of democracy, for the Chief Executive, as opposed to the Cabinet, to deal with such requests. The Chief Executive advised that he would liaise with the respective Chairmen of the boards on any agenda requests which might be deemed to be inappropriate.

RESOLVED that this matter be referred to the Performance Management Board with the request that the Board considers an officer report on concessionary parking for the over 60s once six months worth of the necessary data is available; and

RECOMMENDED that the Constitution be amended to permit any of the Council's boards to ask the Chief Executive to add an item of business to the agenda of any other board.

25/08 DOLPHIN CENTRE PHASE 2 UPDATE

The Cabinet considered a report (contained in the original agenda papers) on issues arising from building works which were being undertaken as part of the second phase of the development of the Dolphin Centre, together with an additional report containing supplementary information in respect of point 3.5
of the original report, relating to the poolside slab and surrounds. Officers advised that the asbestos issues and health problems relating to the water heating system had now been resolved. It was also noted that the £150,000 savings recognised in Phase One of the works meant that the £90,000 virement being sought would not result in any additional release of Capital Receipts.

**RESOLVED** that a virement of £90,000 from Dolphin Centre Phase 1 to Phase 2, to ensure funds are available to carry out the required building works, including the remedial action to the poolside slab and surrounds, be approved.

26/08

**NATIONAL CHANGES TO MODERNISE DISABLED FACILITIES GRANT PROGRAMME**

Consideration was given to a report on changes introduced by the Communities and Local Government to modernise the Disabled Facilities Grant (DFG) programme and improve delivery of adaptations to the homes of disabled persons nationally. The report also asked whether Members wished to allow for a 'Claw Back' clause for DFGs granted over £5,000, requiring repayment of up to a maximum of £10,000 in the event of an adapted property being sold or transferred within ten years of the award of a grant. Officers advised that stair lifts were not included in the process and that these would be recycled should a property with a stair lift become vacated, with a County wide scheme due to be established for this. If agreeing to the introduction of charges Officers would work closely with the County Council to draw up detailed procedures for the implementation of this.

**RESOLVED:**
(a) that the package of changes introduced nationally to the Disabled Facilities Programme be noted;
(b) that the general consent enabling the local authority to place a limited charge on owner occupied adapted properties where the grant exceeds £5,000 be implemented, and a condition requiring repayment of grant of up to a maximum of £10,000 in the event of the adapted property being sold or transferred within 10 years of the grant being awarded be introduced; and
(c) that authority to waive the repayment condition in accordance with the Government’s criteria set out in section 4.3 (b) of the report be delegated to the Head of Planning and Environment in consultation with the Strategic Housing Manager and the Private Sector Housing Team Leader.

27/08

**REVIEW OF REFUSE COLLECTION AND RECYCLING OPERATION**

The Cabinet considered a report on options for replacement of the existing refuse collection vehicle fleet due to serious reliability problems which were being experienced. It was noted that no actual decisions were being taken at this stage, with Officers continuing to work on the available options and to carry out the required negotiations to cover the long term changes and interim
arrangements necessary to facilitate such changes, and to allow the service to continue operating in a more robust manner than at present.

RESOLVED:
(a) that officers continue to pursue an improvement in vehicle reliability through negotiation and discussion with the manufacturer;
(b) that officers continue to pursue an alternative method of refuse collection using a standard type of refuse collection vehicle and seek part payment of some of the new fleet from the manufacturer through a compensation claim;
(c) that officers continue to discuss future disposal options for collected waste with the County Council and their Contractors Severn Waste, or to modify the existing transfer station to be suitable for a standard type of vehicle;
(d) that changes to the recycling service be co-ordinated with the opening of the new Material Reclamation Facility (MRF) in November 2009;
(e) that the completely revised service becomes operational from April 2010 assuming that the new MRF is available from late 2009; and
(f) that the revised service would link residual waste with recycling materials on an alternating week basis and that the green waste will be collected independently of the other materials on an ‘at request’ basis.

28/08 VALUE FOR MONEY STRATEGY

Consideration was given to an updated Value for Money Strategy. Regarding efficiency with Value for Money and the Council’s costs being as low as possible by comparison with similar councils, Members felt it important that where there were costs/factors involved over which the Council had no control, these be made clear in order for fair comparisons to be made and for the public to understand why any of Bromsgrove District Council's costs were higher than other councils.

RESOLVED that the updated Value for Money Strategy at Appendix 1 to the report be approved.

29/08 CIVIL PARKING ENFORCEMENT

The Cabinet considered a report, which summarised an in depth feasibility study by RTA Associates Ltd., on the adoption of Civil Parking Enforcement (CPE) within the District. It was noted that whilst the adoption of CPE powers would have ongoing revenue cost, the adoption of alternative methods of operation would drastically enhance the business case for this, meaning it was crucial to maximise any alternative methods such as on-street charges and Automatic Plate Recognition Systems (ANPR). The current low level of enforcement by the Police also meant there was a strong customer business case for adoption, particularly in certain areas of the District. Members noted that it was officers’ belief that CPE would become a statutory requirement for Councils in the future and that if ultimately proceeding down this route any decision to do so could not be reversed.
RESOLVED:
(a) that the adoption of Civil Parking Enforcement (CPE), including Automatic Number Plate Recognition Systems (ANPR), be further scoped in line with the regeneration of the town centre, and that a further report be submitted to the Cabinet on this in twelve months’ time;
(b) that a steering group to manage the CPE process be established; and
(c) that officers commence discussions with the County Council to establish an agency agreement between the District and County Council.

30/08 ENERGY EFFICIENCY GROUP UPDATE

Consideration was given to a report on the work of the Energy Efficiency Group established to promote and pursue actions to secure more efficient energy use by the Council.

RESOLVED that the progress to date of the Energy Efficiency Group be noted.

31/08 IMPROVEMENT PLAN EXCEPTION REPORT (APRIL 2008)

Consideration was given to the updated Improvement Plan Exception Report for April 2008, together with the corrective action being taken.

RESOLVED:
(a) that the revisions to the Improvement Plan Exception Report and the corrective action being taken be noted; and
(b) that it be noted that of the 111 actions highlighted within the Plan for April 2008, 83.8% of the Plan was on target (green), 7.2% was one month behind (amber) and 2.7% was over a month behind (red). 6.3% of actions had been rescheduled or suspended with approval.

32/08 NEW IMPROVEMENT PLAN 2008-2009

The Cabinet considered the new Improvement Plan for 2008/09. The annual Plan would enable the Cabinet and Performance Management Board to monitor progress against the Council's five priorities and the enablers that supported these. The Improvement Plan had been cross referenced to the Council Plan's key deliverables, Department of Communities and Local Government's disengagement criteria and the Audit Commission's direction of travel recommendations.

RECOMMENDED that the Improvement Plan 2008/09 be approved.

The meeting closed at 7.35 p.m.

Chairman
This page is intentionally left blank
ACQUISITION AND DISCLOSURE OF COMMUNICATIONS DATA

<table>
<thead>
<tr>
<th>Responsible Portfolio Holder</th>
<th>Roger Smith</th>
</tr>
</thead>
<tbody>
<tr>
<td>Responsible Head of Service</td>
<td>Claire Felton – Head of Legal, Equalities and Democratic Services</td>
</tr>
</tbody>
</table>

1. SUMMARY

1.1 The Council’s policy on Acquisition and Disclosure of Communications Data Access to Telecommunications Data under Part II of the Regulation of Investigatory Powers Act has been updated. The purpose of the report is to outline to Members the powers available to local authorities to obtain and use communications data in the context of regulatory investigations, and to seek Council’s approval of the updated policy.

2. RECOMMENDATION

2.1 Members are asked to approve the following recommendations:

(a) To adopt the updated policy on Acquisition and Disclosure of Communications Data with effect from 1st September 2008.

(b) To extend the scheme of delegation for Officers in the Council Constitution in respect of the Regulation of Investigatory Powers Act 2000 to include the necessary delegations for both covert surveillance and communications data.

A copy of updated Acquisition and Disclosure of Communications Data policy is attached at Appendix 1; a copy of the proposed changes to the Scheme of Delegation is attached to the Report at Appendix 2.

3. BACKGROUND

3.1 Members will recall that the Council’s RIPA policy relating to the use of covert surveillance to prevent and detect crime was updated in January 2008.

3.2 Under the same piece of legislation (the Regulation of Investigatory Powers Act 2000) Councils are granted powers to obtain communications data in connection with criminal investigations. This is a useful power that can be used to assist investigations into regulatory offences such as benefit fraud. In summary it enables officers to obtain certain information relating to
communications, namely the “who”, “where” and “when” of the communication although not the content of what was said or written. It includes the manner in which and by what method a person or machine communicates with another person or machine. Electronic communication by mobile phone, text and email all fall within the scope of the powers.

3.3 It is a requirement under RIPA that all applications for Communications Data by Council investigators need to be made through an accredited officer known as a Single Point of Contact or a SPoC. The policy sets out the procedures which officers wishing to apply for data need to follow including what type of information can be obtained, the application process and the roles of the different officers involved. The procedures broadly follow the same principles as for covert surveillance under RIPA. These are that :-

- The only lawful reason to access communications data is for the purpose of preventing or detecting crime or of preventing disorder.
- The requesting officer must show that obtaining the information is necessary and that any resulting intrusion with an individual’s right to privacy is proportionate.
- The request must be considered and approved by a designated person.
- The responsibility for obtaining the data is that of the SPoC officer.
- Strict rules apply as to the renewal and cancellation of authorisations, and to the keeping of records for all applications.

3.4 It is anticipated that the introduction of the new policy will allow officers to make greater use of the powers available to them. This in turn should lead to a higher number of successful investigations. The Councils use of the powers to access communications data will be monitored by the Interception of Communications Commissioner’s Office. Full training will be provided for those officers directly involved in the scheme and named at Appendix A of the policy. Training will also be available for officers whose roles involve investigatory work and who may wish to apply for access to communications data.

4. **FINANCIAL IMPLICATIONS**

4.1 There are no financial implications directly related to this report.

5. **LEGAL IMPLICATIONS**

5.1 As referred to above, the statutory framework for access to communications data is contained in the Regulation of Investigatory Powers Act 2000. The Council must ensure that it complies with the legislation, and compliance will be monitored by the Interception of Communications Commissioner’s Office through annual reporting and use of inspections. Failure to comply could result in the suspension of the Council’s right to apply for communications data, or evidence being deemed inadmissible in prosecution cases.
6. **COUNCIL OBJECTIVES**

   6.1 Updating the policy is relevant to the Council objective of Improvement.

7. **RISK MANAGEMENT**

   7.1 See 5.1 above outlining the risks of the Council failing to comply with the statutory requirements of RIPA.

8. **CUSTOMER IMPLICATIONS**

   8.1 There are no customer implications directly relating to this report save that by embedding best practice in the accessing of communications data the Council will serve the public at large by having better prospects of combating benefit fraud and other regulatory offences.

9. **EQUALITIES AND DIVERSITY IMPLICATIONS**

   9.1 None

10. **OTHER IMPLICATIONS**

    | Procurement Issues | None |
    | Personnel Implications | None |
    | Governance/Performance Management | None save for the consequences of failing to comply with RIPA as referred to at 5.1. |
    | Community Safety including Section 17 of Crime and Disorder Act 1998 | |
    | Policy | See main body of the report |
    | Environmental | None |

11. **OTHERS CONSULTED ON THE REPORT**

<pre><code>| Portfolio Holder | Yes |
| Chief Executive | Yes |
| Corporate Director (Services) | No |
</code></pre>
<table>
<thead>
<tr>
<th>Position</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assistant Chief Executive</td>
<td>No</td>
</tr>
<tr>
<td>Head of Service</td>
<td>Yes</td>
</tr>
<tr>
<td>Head of Financial Services</td>
<td>No</td>
</tr>
<tr>
<td>Head of Legal, Equalities &amp; Democratic Services</td>
<td>Yes</td>
</tr>
<tr>
<td>Head of Organisational Development &amp; HR</td>
<td>No</td>
</tr>
<tr>
<td>Corporate Procurement Team</td>
<td>No</td>
</tr>
</tbody>
</table>

12. **APPENDICES**

- **Appendix 1** Updated policy in relation to the Acquisition and Disclosure of Communications Data
- **Appendix 2** Proposed changes to the Scheme of Delegation for Officers in relation to RIPA.

13. **BACKGROUND PAPERS**

N/a

**CONTACT OFFICER**

Name: Claire Felton  
E Mail: c.felton@bromsgrove.gov.uk  
Tel: (01527) 881924

Name: Sarah Sellers  
E Mail: s.sellers@bromsgrove.gov.uk  
Tel: (01527) 881397
Acquisition and Disclosure of Communications
Data Policy

Chapter II of Part I of the Regulation of

July 2008
## CONTENTS

- Introduction.................................................................................................................. 3
- What is Communications Data ..................................................................................... 4
- Types of Communication Data ..................................................................................... 4
- Who Can We Obtain the Data From and For What reason ........................................... 8
- Lawful Reason to Access Communications Data ......................................................... 8
- Using Other Powers ..................................................................................................... 8
- The Two Ways of Obtaining Communications Data .................................................... 9
- Duration of Authorisations and Notices .................................................................... 10
- Internal Investigations ................................................................................................. 10
- Roles of Staff Involved in the Process ....................................................................... 10
  - The Applicant ......................................................................................................... 11
  - The Designated Person ............................................................................................. 11
  - The Single Point of Contact ..................................................................................... 11
  - The Senior Responsible Officer ............................................................................. 13
- The Application Process ............................................................................................ 13
  - Necessity and Proportionality .................................................................................. 13
  - What Forms Will be Used ....................................................................................... 14
- Keeping of Records .................................................................................................... 16
  - Security of Records and Data .................................................................................. 16
  - Errors ........................................................................................................................ 17
  - Excess Data .............................................................................................................. 19
- Data Protection Safeguards ........................................................................................ 20
- Oversight ..................................................................................................................... 21
- Complaints .................................................................................................................. 21
- Appendix A ................................................................................................................ 22
- Appendix B .................................................................................................................. 24
INTRODUCTION

The powers provided by the Regulation of Investigatory Powers Act 2000 (RIPA) allow the Council to obtain Communications Data to progress Criminal Investigations from Communications Service Providers (CSP’s). It is not to be confused with the Council’s practices under the Lawful Business Practices Legislation. This latter legislation relates to the monitoring of the Council’s own communication and computer systems.

Part 1 of RIPA introduces a statutory framework to regulate the access to communications data by public authorities consistent with the Human Rights Act 1998. All applications for Communications Data will be made through one of the Council’s Accredited Officers Single Point of Contacts (SPoC’s) who have passed a Home Office approved course. Although the Council has a number of trained SPoC’s in different service areas the responsibility will be seen as a corporate function. Therefore no one department will have their own procedures and work in isolation to the other SPoC’s.

This Policy sets out Bromsgrove Council’s procedures and approach to obtaining and handling Communications Data for the purposes of Criminal Investigations. It should be read in conjunction with the Home Office Code of Practice (the codes) which explains the duties and responsibilities placed upon each party involved in these processes and creates a system of safeguards, consistent with the requirements of article 8 of the ECHR.

The Codes can be obtained from the intranet and are available to all Council Staff involved in the acquisition of Communications Data.

Both this policy and the Codes of Practice will be followed at all times and under no circumstances should the unauthorised access to obtain Communications Data be sought outside of this guidance or by requiring, or inviting, any postal or telecommunications operator to disclose communications data by exercising any exemption to the principle of non-disclosure of communications data under the Data Protection Act 1998 (‘the DPA’).

The Codes of Practice are admissible in evidence in criminal and civil proceedings.

A Communications Service Provider (CSP’s) is an operator who provides a postal or telecommunications service such as Royal Mail and the usual Telephone Service providers.
What is Communications Data

Communications Data does not include the contents of any communication. It is not lawfully possible for Bromsgrove Council employees under any circumstances to obtain the contents of communications. SPoC/Accredited Officers will ensure they are aware and remain up to date with the less obvious communications data which would constitute contents.

The term ‘communications data’ embraces the ‘who’, ‘when’ and ‘where’ of a communication but not the content, not what was said or written. It includes the manner in which, and by what method, a person or machine communicates with another person or machine. It excludes what they say or what data they pass on within a communication including text, audio and video (with the exception of traffic data to establish another communication such as that created from the use of calling cards, redirection services, or in the commission of ‘dial through’ fraud and other crimes where data is passed on to activate communications equipment in order to obtain communications services fraudulently).

Consultation with the Council’s Single Point of Contact (SPoC) will determine the most appropriate plan for acquiring data where the provision of a communication service engages a number of providers.

Types of Communications Data

There are three types of Communications Data which may be obtained. They are:

(a) Traffic Data

(b) Service Use Information

(c) Subscriber/ Account information

Bromsgrove Council has no lawful authority to obtain Traffic Data. However it can lawfully obtain Service Use data and Subscriber/Account information if the application meets the test of Necessity and Proportionality which will be decided by the Designated Person (Authorising Officer).

Traffic Data
APPENDIX 1

The Act defines certain communications data as 'traffic data' in sections 21(4)(a) and 21(6) of the Act. This is data that is or has been comprised in or attached to a communication for the purpose of transmitting the communication and which 'in relation to any communication':

Examples of traffic data, within the definition in section 21(6), include:

- information tracing the origin or destination of a communication that is, or has been, in transmission (including incoming call records);
- information identifying the location of equipment when a communication is, has been or may be made or received (such as the location of a mobile phone);
- information identifying the sender or recipient (including copy recipients) of a communication from data comprised in or attached to the communication;
- routing information identifying equipment through which a communication is or has been transmitted (for example, dynamic IP address allocation, file transfer logs and e-mail headers – to the extent that content of a communication, such as the subject line of an e-mail, is not disclosed);
- web browsing information to the extent that only a host machine, server, domain name or IP address is disclosed;
- anything, such as addresses or markings, written on the outside of a postal item (such as a letter, packet or parcel) that is in transmission and which shows the item's postal routing;
- record of correspondence checks comprising details of traffic data from postal items in transmission to a specific address, and
- online tracking of communications (including postal items and parcels).

Any message written on the outside of a postal item, which is in transmission, may be content (depending on the author of the message) and fall within the scope of the provisions for interception of communications for which Bromsgrove Council has no Authority to obtain. For example, a message written by the sender will be content but a message written by a postal worker concerning the delivery of the postal item will not. All information on the outside of a postal item
concerning its postal routing, for example the address of the recipient, the sender and the post-mark, is traffic data within section 21(4)(a) of the Act.

Bromsgrove Council has no lawful authority to obtain Traffic Data.

Service Use Information

Data relating to the use made by any person of a postal or telecommunications service, or any part of it, is widely known as ‘service use information’ and falls within section 21(4)(b) of the Act and the Council can lawfully obtain this data.

Examples of data within the definition at section 21(4)(b) include:

- itemised telephone call records (numbers called);
- itemised records of connections to internet services;
- itemised timing and duration of service usage (calls and/or connections);
- information about amounts of data downloaded and/or uploaded;
- information about the use made of services which the user is allocated or has subscribed to (or may have subscribed to) including conference calling, call messaging, call waiting and call barring telecommunications services;
- information about the use of forwarding/redirection services;
- information about selection of preferential numbers or discount calls;
- records of postal items, such as records of registered post, recorded or special delivery postal items, records of parcel consignment, delivery and collection.

Subscriber Information

The third type of communication data, widely known as ‘subscriber information’, is set out in section 21(4)(c) of the Act. This relates to information held or obtained by a CSP about persons to whom the CSP provides or has provided a communications service. Those persons will include people who are subscribers to a communications service without necessarily using that service and persons
who use a communications service without necessarily subscribing to it, and the Council can lawfully obtain this data

Person includes any organisation and any association or combination of persons.

Examples of data within the definition at section 21(4) (c) include:

- ‘subscriber checks’ (also known as ‘reverse look ups’) such as “who is the subscriber of phone number 012 345 6789?”, “who is the account holder of e-mail account example@example.co.uk?” or “who is entitled to post to web space www.example.co.uk?”;

- information about the subscriber to a PO Box number or a Postage Paid Impression used on bulk mailings;

- information about the provision to a subscriber or account holder of forwarding/redirection services, including delivery and forwarding addresses;

- subscribers or account holders’ account information, including names and addresses for installation, and billing including payment method(s), details of payments;

- information about the connection, disconnection and reconnection of services to which the subscriber or account holder is allocated or has subscribed to (or may have subscribed to) including conference calling, call messaging, call waiting and call barring telecommunications services;

- information about apparatus used by, or made available to, the subscriber or account holder, including the manufacturer, model, serial numbers and apparatus codes;

- information provided by a subscriber or account holder to a CSP, such as demographic information or sign-up data (to the extent that information, such as a password, giving access to the content of any stored communications is not disclosed.

The SPoC will provide advice and assistance with regard to the types of Communications Data and the category it is listed under.
Who Can We Obtain the Data From and For What reason?

Communications data can be obtained from a Communications Service Provider (CSP’s). A CSP is an operator who provides a postal or telecommunications service such as Royal Mail and the usual Telephone Service providers. However, there may be less obvious companies which may be classed as a CSP and advice should be sought from the SPoC.

Bromsgrove Council can only process and consider applications to access Communications Data from within this Authority. Under no circumstances will applications be accepted for outside authorities/agencies. However, it may be necessary during joint investigations to obtain Communications Data. If this becomes necessary it is important that we are not bending the rules and applying or using the data where we would not normally be allowed to either access the data or that the other organisation has no lawful power to obtain Communications Data.

It should be clearly recognisable from the individual investigation policy that it is a joint investigation. You may have to justify this to a Court or Tribunal.

Lawful Reason to Access Communications Data

Bromsgrove Council's only lawful reason to access Communications Data is for

- the purpose of preventing or detecting crime or of preventing disorder;

Detecting crime includes establishing by whom, for what purpose, by what means and generally in what circumstances any crime was committed, the gathering of evidence for use in any legal proceedings and the apprehension of the person (or persons) by whom any crime was committed.

Using Other Powers

The codes state where a public authority seeks to obtain communications data using provisions providing explicitly for the obtaining of communications data (other than Chapter II of Part I of the Act) or using statutory powers conferred by a warrant or order issued by a person holding judicial office, the SPoC should be
engaged in the process of obtaining the data to ensure effective co-operation between the public authority and the CSP.

Although there is some limited provision for obtaining some low grade Communications Data by other Statutory means such as The Social Security Administration Act the position of this Council is that the RIPA legislation will be used.

Should it be necessary to obtain Communications Data via other means such as a court order the application should be handled by a SPoC.

The Two Ways of Obtaining Communications Data

The legislation provides two different methods of acquiring communications data (see below). However it is envisaged that the method using a Notice form will be the only one used by this Authority:

The two methods

- an authorisation under section 22(3), or
- a notice under section 22(4).

An Authorisation (see Authorisation Form) would allow the Council to obtain the Communications Data itself in certain circumstances (which are contained within the Codes of Practice). It would be very unusual for the Council to use this method; very careful consideration should be given prior to authorization. It will be the role of the SPoC to determine which method should be used.

Notices

A Notice is a document which when authorized is served upon the CSP by the SPoC and which requires the CSP to provide the data which would usually be returned to the SPoC. The decision of a Designated Person whether to give a notice shall be based upon information presented to them in an application form.

Ordinarily the CSP should disclose, in writing or electronically, the communications data to which a notice relates not later than the end of the period of ten working days from the date the notice is served upon the CSP. Should the data not be returned within this period they should only be contacted by the SPoC.

The original notice will be retained by the SPoC within the public authority.
Duration of Authorisations and Notices

From the time that the Authorisation or Notice is authorized (signed by the D.P.) it has a validity of a maximum of one month. This means the conduct authorised should have been commenced or the notice served within that month.

Realistically there should be no significant delay once the Authorisation or Notice has been signed for the Notice to be served on the CSP or the data to be obtained under the Authorisation.

A month means a period of time extending from a date in one calendar month to the date one day before the corresponding or nearest date in the following month. For example, a month beginning on 7 June ends on 6 July, a month beginning on 30 January ends on 28 February or 29 February in a leap year.

Internal Investigations

The Codes state where an investigation relates to an allegation of criminal conduct by a member of a public authority, that public authority (or another public authority appointed to investigate the complaint) may use their powers under Chapter II to obtain communications data for the purpose of preventing and detecting the alleged or suspected crime where the investigating officer intends the matter to be subject of a prosecution within a criminal court. Should it be determined there are insufficient grounds to continue the investigation or insufficient evidence to initiate a prosecution within a criminal court, it will, with immediate effect, no longer be appropriate to obtain communications data under the Act.

If Communications Data is sought in connection with internal staff committing crimes against the Council it is important that it is a Criminal Investigation with a view to proceeding criminally as opposed to just a Disciplinary matter.

Advice may be required from the Council’s Legal section if this arises.

Roles of Staff Involved in the Process

Acquisition of communications data under the Act involves four roles within a relevant public authority:

- the applicant
- the designated person
APPENDIX 1

- the single point of contact
- the senior responsible officer

The Applicant

The applicant is a person involved in conducting an investigation or operation who makes an application in writing for the acquisition of communications data. The applicant completes an application form, setting out for consideration by the designated person, the necessity and proportionality of a specific requirement for acquiring communications data.

The Designated Person

The designated person is a person holding a prescribed office in a relevant public authority and who considers the application for authorisation much the same as a Surveillance RIP application.

Individuals who undertake the role of a designated person must have current working knowledge of human rights principles, specifically those of necessity and proportionality, and how they apply to the acquisition of communications data.

The designated person shall assess the necessity for any conduct to acquire or obtain communications data taking account of any advice provided by the single point of contact (SPoC). They will also assess the issue of proportionality (see page 13) taking into account any collateral intrusion issues.

Designated persons should not be responsible for granting authorisations or giving notices in relation to investigations or operations in which they are directly involved.

A list of Designated Persons for Bromsgrove Council is shown at appendix A.

The Single Point of Contact

The single point of contact (SPoC) is either an accredited individual (who passed the Home Office Course) or a group of accredited individuals trained to facilitate lawful acquisition of communications data and effective co-operation between a public authority and CSPs. They will have been issued a SPoC Personal Identification Number (PIN). Details of all accredited individuals are available to CSPs for authentication purposes.

Under no circumstances will a SPoC allow anyone to use their PIN number.
An accredited SPoC promotes efficiency and good practice in ensuring only practical and lawful requirements for communications data are undertaken. The SPoC provides objective judgement and advice to both the applicant and the designated person. In this way the SPoC provides a "guardian and gatekeeper" function ensuring that public authorities act in an informed and lawful manner.

SPoC’s should be conversant with their role and all the relevant contents within the codes of practice. The SPoC should be in a position to:

- engage proactively with applicants to develop strategies to obtain communications data and use it effectively in support of operations or investigations;
- assess whether the acquisition of specific communications data from a CSP is reasonably practical or whether the specific data required is inextricably linked to other data
- advise applicants on the most appropriate methodology for acquisition of data where the data sought engages a number of CSPs;
- advise applicants and designated persons on the interpretation of the Act, particularly whether an authorisation or notice is appropriate;
- provide assurance to designated persons that authorisations and notices are lawful under the Act and free from errors;
- provide assurance to CSPs that authorisations and notices are authentic and lawful;
- assess whether communications data disclosed by a CSP in response to a notice fulfils the requirement of the notice;
- assess whether communications data obtained by means of an authorisation fulfils the requirement of the authorisation;
- assess any cost and resource implications to both the public authority and the CSP of data requirements.

The SPoC will retain the originals of all the documents involved in the process. Copies of the documents may be retained by the Applicant, Designated Person or within the relevant department for audit and filing purposes.

For the purposes of Bromsgrove Council to demonstrate fairness all three roles will be performed within the application process by separate officers.
The Senior Responsible Officer

The senior responsible officer (shown on appendix A) will be responsible for:

- the integrity of the process in place within the public authority to acquire communications data;
- compliance with Chapter II of Part I of the Act and with this code;
- oversight of the reporting of errors to IOCCO and the identification of both the cause(s) of errors and the implementation of processes to minimise repetition of errors;
- engagement with the IOCCO inspectors when they conduct their inspections, and
- where necessary, oversee the implementation of post-inspection action plans approved by the Commissioner.

The Application Process

Prior to an applicant applying for communications data the applicant should contact a SPoC who will be in a position to advise them regarding the obtaining and use of communications data within their investigation. This will reduce the risk of the applicant applying for data which we are not able to obtain and it will also assist the applicant to apply for the most suitable data for those particular circumstances.

There is an overview of the whole process which can be found at appendix B.

Necessity and Proportionality

The acquisition of communications data under the Act will be a justifiable interference with an individual’s human rights under Article 8 of the European Convention on Human Rights only if the conduct being authorised or required to take place is both necessary and proportionate and in accordance with law. Designated Persons who can authorise applications on behalf of this Council will need to have some training with regard to the Human Rights Act and in particular necessity, proportionality and the collateral intrusion issues which may arise with regard to obtaining Communications Data.
The designated person must believe that the conduct required by any authorisation or notice is necessary. They must also believe that the conduct to be proportionate to what is sought to be achieved by obtaining the specified communication data – that the conduct is no more than is required in the circumstances. This involves balancing the extent of the intrusiveness of the interference with an individual’s right of respect for their private life against a specific benefit to the investigation or operation being undertaken.

Consideration must also be given to any actual or potential infringement of the privacy of individuals who are not the subject of the investigation or operation. They should consider any meaningful degree of collateral intrusion.

Designated persons should give particular consideration to any periods of days or shorter periods of time for which they may approve for the acquisition of data. They should specify the shortest period in which the objective for which the data is sought can be achieved. To do otherwise will impact on the proportionality of the authorisation or notice and impose unnecessary burden upon a CSP given such notice.

What Forms Will be Used

Below is a list of forms which will be used for the process of obtaining Communications Data. The SPoC’s complete most of the forms once the application has been submitted. The SPoC’s will therefore ensure that they have the necessary knowledge in how to complete the required paperwork.

- Application Form (to be completed by applicant)
- SPoC Officers Rejection Form (to be completed by the SPoC if necessary)
- SPoC Officers Log Sheet (to be completed by the SPoC)
- Draft Notice (to be completed by the SPoC)
- Authorisation Form (to be completed by the SPoC if necessary)
- Applicants Cancellation Form (to be completed by applicant when necessary and forwarded to the SPoC)
- Notice Cancellation Form (to be completed by the SPoC and forwarded to relevant CSP)
- Authorisation Cancellation Form (to be completed by the SPoC when necessary)
- Error Reporting Letter (to be completed by the SPoC and forwarded to Interception of Communications Commissioners Office (IOCCO))

The above forms can be obtained from the Secure SPoC Folder on the Corporate Drive.

Application

All applications will be submitted by the applicant in writing using the application forms which can be obtained from the intranet. All the relevant sections should be completed fully as the DP can only consider authorising it based on the content of the application form. The details contained within the application form must take account of necessity, proportionality and any meaningful degree of collateral intrusion. The SPoC will provide advice regarding these issues and completion of the form.

Renewal of Authorisations and Notices

Renewals would normally be used when obtaining future data such a cell site analysis which this Council is not allowed to obtain. Therefore there will be no circumstance where a renewal of an application will be made.

The original application, Notice/ Authorisation (or copy if original has been served on CSP) will be retained by the SPoC within the SPoC records.

A central register of completed SPoC requests and papers will be maintained and will be held by one of the trained SPoC’s on behalf of all SPoC’s.

Cancellation of Notices and Withdrawal of Authorisations

A cancellation will be appropriate when an Authorisation or Notice has been authorised (signed by the D.P) and prior to receiving or obtaining the Data from the C.S.P. it becomes apparent that the data requested is no longer required, or no longer proportionate to what was sought to be achieved.

In these situations it is the responsibility of the applicant or other officers conducting the investigation to ensure that they notify the SPoC as soon as it becomes apparent that the data is no longer required. An Application Cancellation form which can be obtained from the intranet, and should be submitted by the applicant. A cancellation of the Authorisation or Notice form should be signed by the originating D.P. (or another D.P. in their absence) which will then be served on the CSP by the SPoC.
It will be at the discretion of the SPoC to decide whether they feel it necessary to inform the CSP prior to serving a cancellation notice.

**Urgent Oral Authorisation**

There is no provision within the legislation for Bromsgrove Council to orally provide authority to obtain Communications Data. All requests will be made in writing on the appropriate application forms.

**Cost Involved**

There will be costs incurred when obtaining Communications Data from CSP’s. It will be the responsibility of the SPoC to assess the costs involved and advise the D.P. prior to authorisation. The SPoC will also provide advice to applicants to ensure that no unnecessary costs are involved.

**Keeping of Records**

**Security of Records and Data**

All the records and any data obtained as a result of the process under this legislation must be kept secure and confidential.

Applications, authorisations, copies of notices, and records of the withdrawal of authorisations and the cancellation of notices, must be retained by Bromsgrove Council in written or electronic form, and physically attached or cross-referenced where they are associated with each other. We will also keep a record of the date and, when appropriate to do so, the time when each notice or authorisation is given or granted or cancelled. Errors should they occur (see below) will also be recorded by the SPoC and notified to the Senior Responsible Officer (see appendix A). These records will be held centrally by one of the SPoC’s, on behalf of all the SPoC’s.

These records must be available for inspection by the Commissioner and retained to allow the Investigatory Powers Tribunal to carry out its functions.

**To meet its requirements the Council must also keep a record of the following items:**

- number of applications submitted to a designated person for a decision to obtain communications data which were rejected after due consideration;
• number of notices requiring disclosure of communications data within the meaning of each subsection of section 21(4) of the Act or any combinations of data;

• number of authorisations for conduct to acquire communications data within the meaning of each subsection of section 21(4) of the Act or any combinations of data;

This record must be sent in written or electronic form to the Commissioner as determined by him.

Errors

The thorough checking of applications and this Council’s operating procedures, including the careful preparation and checking of applications, notices/authorisations, should reduce the scope for making errors. Attention to detail will be required by all persons involved in the process.

Reporting and recording of errors will draw attention to those aspects of the process of acquisition and disclosure of communications data that require further improvement to eliminate errors and the risk of undue interference with any individual’s rights.

Where material is disclosed by a CSP in error which has no connection or relevance to any investigation or operation undertaken by the public authority receiving it, that material and any copy of it should be destroyed as soon as the report to the Commissioner has been made.

An error can only occur after a designated person:

• has granted an authorisation and the acquisition of data has been initiated, or
• has given notice and the notice has been served on a CSP in writing, electronically or orally.

It is important to apply the procedures correctly to reduce the risk of an error occurring.

Where any error occurs, a record should be kept.

There are two types of errors:

• Reportable
• Recordable
Reportable

Where communications data is acquired or disclosed wrongly a report must be made to the Commissioner ("reportable error"). Such errors can have very significant consequences on an affected individual’s rights with details of their private communications being disclosed to a public authority and, in extreme circumstances, being wrongly detained or wrongly accused of a crime as a result of that error.

Recordable

In cases where an error has occurred but is identified by the public authority or the CSP without data being acquired or disclosed wrongly, a record will be maintained by the public authority of such occurrences ("recordable error"). These records must be available for inspection by the Commissioner.

The staff involved in the process of acquiring Communications Data must adhere and report errors once they have been identified. It will not be acceptable for the error to be ignored. It will be the responsibility of SPoC’s and the Senior Responsible Officer to be aware of the different ways in which errors can occur and the relevant procedure to be followed. Some examples are detailed below. They will also be responsible for informing applicants to report any errors that they are aware of to the SPoC.

Examples can include:

Reportable Errors

- an authorisation or notice made for a purpose, or for a type of data, which the relevant public authority cannot call upon, or seek, under the Act;

- human error, such as incorrect transposition of information from an application to an authorisation or notice

- disclosure of the wrong data by a CSP when complying with a notice;

- acquisition of the wrong data by a public authority when engaging in conduct specified in an authorisation;

Recordable errors
• a notice given which is impossible for a CSP to comply with and an attempt to impose the requirement has been undertaken by the public authority;

• failure to review information already held, for example unnecessarily seeking the acquisition or disclosure of data already acquired or obtained for the same investigation or operation, or data for which the requirement to acquire or obtain it is known to be no longer valid;

• failure to serve written notice (or where appropriate an authorisation) upon a CSP within one working day of urgent oral notice being given or an urgent oral authorisation granted.

Excess Data

Where an application by this Authority results in the acquisition of excess data, or its disclosure by a CSP in order to comply with the requirement of a notice, all the data acquired or disclosed will be retained by the public authority.

As the material will have been obtained in connection with a criminal investigation it is bound by the CPIA and its code of practice and therefore there will be a requirement to record and retain data which is relevant to the criminal investigation, even if that data was disclosed or acquired beyond the scope of a valid notice or authorisation. If the criminal investigation results in proceedings being instituted all material that may be relevant must be retained at least until the accused is acquitted or convicted or the prosecutor decides not to proceed.

If having reviewed the excess data it is intended to make use of the excess data in the course of the investigation or operation, the applicant must set out the reason(s) for needing to use that material in a report which will be an addendum to the application upon which the authorisation or notice was originally granted or given. This will be submitted via the SPoC who will forward the relevant documentation to the Designated Person who will then consider the reason(s) and review all the data and consider whether it is necessary and proportionate for the excess data to be used in the investigation or operation.

Criminal Procedures and Investigations Act (CPIA) and the Data Protection Act (DPA)

The codes do not affect any other statutory obligations placed on Bromsgrove Council to keep records under any other enactment such as the Criminal Procedure and Investigations Act 1996 (CPIA). This requires that material which
is obtained in the course of an investigation and which may be relevant to the investigation must be recorded, retained and revealed to the prosecutor.

Data Protection Safeguards

Communications data acquired or obtained under the provisions of the Act, and all copies, extracts and summaries of it, must be handled and stored securely. In addition, the requirements of the Data Protection Act 1998 and its data protection principles must be adhered to.

There is no provision in the Act preventing CSPs from informing individuals about whom they have been required by notice to disclose communications data in response to a Subject Access Request made under section 7 of the DPA. However a CSP may exercise certain exemptions to the right of subject access under Part IV of the DPA.

Section 29 provides that personal data processed for the purposes of the prevention and detection of crime; the apprehension or prosecution of offenders, or the assessment or collection of any tax or duty or other imposition of a similar nature are exempt from section 7 to the extent to which the application of the provisions for rights of data subjects would be likely to prejudice any of those matters. However this is not an automatic right. In the event that a CSP receives a subject access request where the fact of a disclosure under the Act might itself be disclosed the CSP concerned must carefully consider whether in the particular case disclosure of the fact of the notice would be likely to prejudice the prevention or detection of crime.

Should a request for advice be made from a CSP regarding a disclosure the SPoC will consult with the Data Protection Officer for Bromsgrove Council and Legal Services if necessary before a decision is made. Each case should be examined on its own merits.

Equally these rules will apply should a subject access request be made from an individual where material under this legislation is held by Bromsgrove Council.

A record will be made of the steps taken in determining whether disclosure of the material would prejudice the apprehension or detection of offenders. This might be useful in the event of the data controller having to respond to enquiries made subsequently by the Information Commissioner, the courts and, in the event of prejudice, the police.

Should Bromsgrove Council have a request to obtain or disclose Communications Data to an overseas authority this request will be notified to the SPoC. All parties involved should refer to the section covering this area within
the Codes of Practice and they should also take advice from the Council’s Data Protection Officer.

It will be the responsibility of the SPoC to ensure that they are aware of how acquiring Communications Data impacts on the Data Protection Act.

**Oversight**

The Act provides for an Interception of Communications Commissioner (‘the Commissioner’) whose remit is to provide independent oversight.

It is important to note that should the Commissioner establish that an individual has been adversely affected by any willful or reckless failure by any person within a relevant public authority exercising or complying with the powers and duties under the Act in relation to the acquisition or disclosure of communications data, he shall, subject to safeguarding national security, inform the affected individual of the existence of the Tribunal and its role. The Commissioner should disclose sufficient information to the affected individual to enable him or her to effectively engage the Tribunal.

**Complaints**

The Act established an independent Tribunal

Details of the relevant complaints procedure can be obtained from the following address:

The Investigatory Powers Tribunal
PO Box 33220
London
SW 1H 9ZQ
020 7035 3711
### Designated Persons

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
<th>Phone</th>
<th>Email</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jayne Pickering</td>
<td>Head of Financial Services</td>
<td>01527 881207</td>
<td><a href="mailto:j.pickering@bromsgrove.gov.uk">j.pickering@bromsgrove.gov.uk</a></td>
</tr>
<tr>
<td>David Hammond</td>
<td>Head of Planning and Environment Services</td>
<td>01527 881330</td>
<td><a href="mailto:d.hammond@bromsgrove.gov.uk">d.hammond@bromsgrove.gov.uk</a></td>
</tr>
<tr>
<td>Deborah Poole</td>
<td>Head of eGovernment &amp; Customer Services</td>
<td>01527 881256</td>
<td><a href="mailto:d.poole@bromsgrove.gov.uk">d.poole@bromsgrove.gov.uk</a></td>
</tr>
</tbody>
</table>

### Single Point of Contacts (SPOCs)

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
<th>Phone</th>
<th>Email</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brenda Darton</td>
<td>Admin/Intel Officer, Financial Services</td>
<td>01527 881603</td>
<td><a href="mailto:b.darton@bromsgrove.gov.uk">b.darton@bromsgrove.gov.uk</a></td>
</tr>
<tr>
<td>Stuart Youngs</td>
<td>Investigator, Financial Services</td>
<td>01527 881233</td>
<td><a href="mailto:s.youngs@bromsgrove.gov.uk">s.youngs@bromsgrove.gov.uk</a></td>
</tr>
<tr>
<td>Robin Goundry</td>
<td>Team Leader Pollution Team Environment Services</td>
<td>01527 881435</td>
<td><a href="mailto:r.goundry@bromsgrove.gov.uk">r.goundry@bromsgrove.gov.uk</a></td>
</tr>
</tbody>
</table>
## APPENDIX 1

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
<th>Phone Number</th>
<th>Email Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ian Keagle</td>
<td>Team Leader Commercial Team Environment Services</td>
<td>01527 881431</td>
<td><a href="mailto:i.keagle@bromsgrove.gov.uk">i.keagle@bromsgrove.gov.uk</a></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Senior Responsible Officer</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Marie Wall</td>
<td>Fraud Services Manager, Financial Services</td>
<td>01527 881240</td>
<td><a href="mailto:m.wall@bromsgrove.gov.uk">m.wall@bromsgrove.gov.uk</a></td>
</tr>
</tbody>
</table>
**Appendix B**

**Applicant**
- Involved in investigation
- SPoC advises
- Application completed if appropriate
- Original documents to SPoC

**Designated Person**
- SPoC advises
- SPoC advises on potential costs
- Authorisation/Rejection of application
- Original documents to SPoC

**SPoC**
- Home Office Accredited
- Advises Applicant and/or DP
- Completes appropriate forms
- Obtains data if DP authorised
- Liaises with CSP(s)
- Maintains database inc. costings
- Keeps all original forms
Senior Responsible Officer
(same Grade/Rank as DP)
Oversees the process
Ensures compliance with Act and Code
Ensures reporting of errors to IOCCO
Engages with IOCCO Inspectors
Oversee any post-inspection action plan(s)
<table>
<thead>
<tr>
<th>Regulation of Investigatory Powers Act</th>
<th>1. To review revise and update the Council’s RIPA policy and the Council’s policy on the Acquisition and Disclosure of Communications Data.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2. Under the provisions of Part I chapter II of the Regulation of Investigatory Powers Act 2000 relating to the Accessing of Communications Data to sign all necessary documents and forms whether by way of Authorisation, Cancellation or Withdrawal</td>
</tr>
<tr>
<td></td>
<td>3. Under the provisions of Part II of the Regulation of Investigatory Power Act 2000 relating to the use of covert surveillance to :-</td>
</tr>
<tr>
<td></td>
<td>3.1 In relation to requests for Directed Surveillance, to sign all necessary documents and forms whether by way of Authorisation, Review, or Cancellation</td>
</tr>
<tr>
<td></td>
<td>3.2 In relation to any request for surveillance where it is considered likely that confidential information will be obtained, to sign all necessary documents and forms</td>
</tr>
<tr>
<td>1. – 3.5. Council</td>
<td>1. Head of Legal, Equalities and Democratic Services</td>
</tr>
<tr>
<td></td>
<td>2. Heads of Service authorised to do so under Appendix A of the Council’s policy on the Acquisition and Disclosure of Communications Data</td>
</tr>
<tr>
<td></td>
<td>3.1. Heads of Service authorised to do so under Appendix 2 of the RIPA policy</td>
</tr>
<tr>
<td></td>
<td>3.2. Chief Executive or in his absence the</td>
</tr>
<tr>
<td>3.3</td>
<td>In relation to requests for Covert Human Intelligence Sources where the source is aged under 18, to sign all necessary documents and forms whether by way of Authorisation, Review, or Cancellation.</td>
</tr>
<tr>
<td>3.4</td>
<td>In relation to requests for Urgent Oral Authorisations of covert surveillance</td>
</tr>
<tr>
<td>3.5</td>
<td>To maintain the central record of authorisations</td>
</tr>
</tbody>
</table>

| 3.3 | Chief Executive or in his absence the Executive Director of Services |
| 3.4 | Heads of Service and senior managers authorised to do so under Appendix 2 of the RIPA policy |
| 3.5 | The Data Protection Officer under the supervision of the Head of Service for E Government and Customer Services |

| Executive Director of Services |
| Chief Executive or in his absence the Executive Director of Services |
| Heads of Service and senior managers authorised to do so under Appendix 2 of the RIPA policy |
| The Data Protection Officer under the supervision of the Head of Service for E Government and Customer Services |
Additional Information sheet explaining the procedure for dealing with planning applications including advising members of the public of the “call in” procedure to planning committee for applications that would otherwise have been delegated

<table>
<thead>
<tr>
<th>Responsible Portfolio Holder</th>
<th>Mrs. J. Dyer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Responsible Head of Service</td>
<td>D. Hammond</td>
</tr>
<tr>
<td>Non-Key Decision</td>
<td></td>
</tr>
</tbody>
</table>

1. **SUMMARY**

1.1 To consider the format of information to be provided to the public explaining how a planning application is dealt with, including advising of the “call in” procedure within the development control process.

2. **RECOMMENDATION**

2.1 That the Council consider and adopt option 1 of the information given to members of the public with regard to the “call in” procedure within the development control process.

3. **BACKGROUND**

3.1 At the meeting of the Council on 6th May 2008, members expressed concern that it may not be apparent to members of the public who have submitted a planning application, that there exists within the delegated schedule an opportunity for applications that would otherwise be dealt with by officers under delegated powers to be “called in” to Planning Committee by the relevant Ward Councillor.

3.2 At appendix 1 & 2 of this report are two options that could be sent out with application form packs when they are requested, or when an application is registered as being valid. Option 1 is a full text explanation of how an application will be dealt with by this authority, including an explanation of the “call in” procedure. Option 2 is a diagram of the same process.

4. **FINANCIAL IMPLICATIONS**

4.1 There are financial implications with regard to officer time if more applications have to be considered by Planning Committee
5. **LEGAL IMPLICATIONS**

5.1 There are no legal implications as a result of providing this information sheet.

6. **COUNCIL OBJECTIVES**

6.1 The information sheet would link to Council objective 2 – Improvement and to CO2 Priority 4 – Customer Service by improving our customers understanding of our service delivery.

7. **RISK MANAGEMENT**

7.1 None

8. **CUSTOMER IMPLICATIONS**

8.1 The introduction of this information sheet will better inform our customers of how we deal with planning applications.

9. **EQUALITIES AND DIVERSITY IMPLICATIONS**

9.1 The Council’s language line facility will be available on request.

10. **VALUE FOR MONEY IMPLICATIONS**

10.1 None

11. **OTHER IMPLICATIONS**

<table>
<thead>
<tr>
<th></th>
<th>None</th>
</tr>
</thead>
<tbody>
<tr>
<td>Procurement Issues</td>
<td></td>
</tr>
<tr>
<td>Personnel Implications</td>
<td>None</td>
</tr>
<tr>
<td>Governance/Performance Management</td>
<td>None</td>
</tr>
<tr>
<td>Community Safety including Section 17 of Crime and Disorder Act 1998</td>
<td>None</td>
</tr>
<tr>
<td>Policy</td>
<td>None</td>
</tr>
<tr>
<td>Environmental</td>
<td>None</td>
</tr>
</tbody>
</table>
12. OTHERS CONSULTED ON THE REPORT

<table>
<thead>
<tr>
<th>Role</th>
<th>Yes/No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Portfolio Holder</td>
<td>Yes</td>
</tr>
<tr>
<td>Chief Executive</td>
<td>No</td>
</tr>
<tr>
<td>Executive Director - Partnerships</td>
<td>Yes</td>
</tr>
<tr>
<td>and Projects</td>
<td></td>
</tr>
<tr>
<td>Executive Director - Services</td>
<td>No</td>
</tr>
<tr>
<td>Assistant Chief Executive</td>
<td>No</td>
</tr>
<tr>
<td>Head of Service</td>
<td>Author</td>
</tr>
<tr>
<td>Head of Financial Services</td>
<td>No</td>
</tr>
<tr>
<td>Head of Legal, Equalities &amp;</td>
<td>Yes</td>
</tr>
<tr>
<td>Democratic Services</td>
<td></td>
</tr>
<tr>
<td>Head of Organisational Development</td>
<td>No</td>
</tr>
<tr>
<td>&amp; HR</td>
<td></td>
</tr>
<tr>
<td>Corporate Procurement Team</td>
<td>No</td>
</tr>
</tbody>
</table>

13. WARDS AFFECTED

All wards

14. APPENDICES

Appendix 1  Option 1 – text version of planning application process
Appendix 2  Option 2 – Diagram of planning application process

15. BACKGROUND PAPERS

None

CONTACT OFFICER

Name: Dave Hammond
E Mail: d.hammond@bromsgrove.gov.uk
Tel: (01527) 881330
This page is intentionally left blank
Appendix 1

How your Planning Application is dealt with

When you submit your completed planning application the procedure that the Council will follow is set out below:

- The application is registered by Officers to check that all the required information has been submitted and that the application can be made valid. If it is not you will be advised what information is lacking in writing.

- The application will be assessed against the Council’s delegated schedule to see if it is a matter that can be dealt with at officer level or a matter that must be considered by the Council’s Planning Committee. The delegated schedule is set out below:

  All major applications are to be considered by Planning Committee, every other type of application is delegated to officers to determine, unless the application is called into Planning Committee by the relevant Ward Councillor.

  For the purposes of clarity, a “Major” application is defined as:
  The provision of dwelling houses where-
  - the number of dwelling houses to be provided is 10 or more
  - the development site area is 0.5ha or more and it is not known how many dwellings are proposed.
  - the application is for provision of a building or buildings with a floor space of 1000m² or more
  - the development is to be carried out on a site having an area of 1 hectare or more.

- The District of Bromsgrove is split into 23 Wards. Each Ward has at least one elected Councillor. There are 39 District Councillors, 13 of whom sit on the Planning Committee.

- Applicants/objectors can contact their Ward Councillor to ask them to call in an application. To find out who the relevant Ward Councillor is you can contact the Customer Service Centre on 01527 881288

- For a Ward Councillor to call an application to Planning Committee, he/she must give good reason which must be set out on a form that is sent out to Ward Councillors with the weekly list of planning applications received.

- Your application will be publicised, either by a notice in the local paper, or by a site notice, and your neighbours will be advised by letter, if their property abuts the red line on the plan of your proposal.
There are a number of statutory organisations that must be consulted, such as the Highways Authority, and the relevant Parish Council if you live in an area that is Parished. The Parish Council are the third tier of local government but are in fact a separate body to the District Council. Although they are consulted, they are not the determining body for planning applications. That rests with the District Council.

Officers will undertake a site visit and assess your proposal against the relevant national, regional and local planning policies. They will write a report setting out the issues and form a conclusion upon which their recommendation is based.

If the application is to be considered by Planning Committee, the Members of that Committee will often undertake a site visit themselves prior to their meeting. Planning Committee site visits take place on the Thursday before the Committee meeting which itself takes place at 2 p.m. on a Monday. There is one Planning Committee every four weeks.

If the matter is delegated and has not been called in by a Ward Councillor, the Head of Planning and Environment Services will determine the application.

At the Planning Committee applicants and objectors are allowed to speak to the Committee for 3 minutes provided they abide by the rules governing that procedure which are available on request.

The Officers will update the Planning Committee and in some instances provide a presentation of the proposals in power point.

The Committee will then listen to any public speakers before deliberating the merits of the application.

The Councillors will vote on the application and the majority vote will constitute the Council’s decision on the matter.

The Council’s decision will be set out in a decision notice.

You have a right of appeal against that decision to the Secretary of State. The details of how to do this are set out on the back of the decision notice.
Planning Application Process

Pre – application Discussion

Submit Planning Application

If application incomplete

further information/fee

requested

Application checked

If application complete,
it is registered and acknowledged

Site Visit

Notify public in accordance
with publicity procedures

Consultations
with
Statutory bodies

Negotiate amendments
if necessary

Major Application –
Planning Committee

Application “called in” to
Planning Committee by
Ward Councillor

All other applications
delegated to determine
to Head of Planning
and Environment Services

Application approved or refused

If application refused

Applicant can appeal to
the Secretary of State

Decision Notice issued

Information submitted to discharge planning conditions
BROMSGROVE DISTRICT COUNCIL

COUNCIL

16 JULY 2008

APPOINTMENT OF INDEPENDENT MEMBERS TO THE STANDARDS COMMITTEE

<table>
<thead>
<tr>
<th>Responsible Portfolio Holder</th>
<th>Councillor Roger Smith</th>
</tr>
</thead>
<tbody>
<tr>
<td>Responsible Head of Service</td>
<td>Claire Felton, Head of Legal, Equalities &amp; Democratic Services</td>
</tr>
</tbody>
</table>

1. **SUMMARY**

1.1 This report requests Members to decide upon a process by which independent members are recruited to the Standards Committee.

1.2 Members are also requested to review the term of office an independent member may serve.

2. **RECOMMENDATION**

2.1 Members are requested:

2.1.1 to delegate authority to the Monitoring Officer in consultation with the Chairman of the Standards Committee to compile a suitable recruitment pack for prospective independent members of the Standards Committee;

2.1.2 to delegate authority to the Monitoring Officer in consultation with the Chairman or Vice-Chairman of the Standards Committee to undertake shortlisting of candidates for vacancies for independent members of the Standards Committee;

2.1.3 in cases where there are two or more shortlisted candidates, to delegate authority to the Appointments Panel to interview shortlisted candidates, with the assistance of the Chairman or Vice-Chairman of the Standards Committee who shall act in an advisory (but non-voting) capacity, and to make a recommendation to Council;

2.1.4 to resolve that the term of office of independent members shall be 4 years;

2.1.5 to resolve that independent members may seek reappointment only once.
3. **BACKGROUND**

3.1 The Local Government Acts require local authorities to set up Standards Committees which must comprise a minimum of 25% independent members. It is a statutory requirement for the Standards Committee to be chaired by an independent member. The Council’s Standards Sub-Committees (which undertake the new local assessment function) must also be chaired by independent members.

3.2 The Council's Constitution provides for the Standards Committee to have 3 independent members. The term of office of each independent member is 4 years, and the terms of office of the 3 independent members have been staggered to ensure continuity. Independent members are appointed by the full Council. Vacancies for independent members arise from time to time either as a result of a resignation of a member or upon the expiry of a term of office.

3.3 One of the independent member's terms of office will come to an end in October 2008. In view of the changing nature and the increased responsibility of the role on the selection of quality candidates, it was considered an opportune time to review the process by which independent members are recruited. This was considered by the Standards Committee at its meeting on 12 June 2008 and it was agreed that its recommendations would be forwarded to Council.

**Recruitment Pack**

3.4 The Standards Board for England (“SBE”) has published guidance on independent members which refers to a model recruitment pack produced by the Association of Council Secretaries and Solicitors (ACSeS). The Standards Committee has considered both of these documents and broadly approved the model recruitment pack, although it considered that the model pack was too long and might prove to be off-putting to potential candidates. Members are requested to authorise the Monitoring Officer in consultation with the Chairman of the Standards Committee to produce a suitable recruitment pack. This will include:

i. the statutory qualifications for being an independent member;  
ii. a description of the role of the Standards Committee and the role of the independent members;  
iii. selection criteria – the Standards Committee recommend that criteria are based on those in the SBE guidance and ACSeS model recruitment pack.

**Shortlisting**

3.5 A number of different processes appear to have been used in the past including shortlisting being undertaken by the entire Standards Committee. It is recommended by the Standards Committee that shortlisting is undertaken by the Monitoring Officer in consultation with the Chairman or
Vice-Chairman of the Standards Committee (both of whom are independent members) against the selection criteria in the recruitment pack.

Selection

3.6 If only one suitable candidate is shortlisted, it is recommended by the Standards Committee that the Monitoring Officer should recommend direct to Council that that candidate should be appointed.

3.7 If shortlisting produces two or more suitable candidates, it is recommended by the Standards Committee that the Appointments Committee should interview the candidates, but that an independent member of the Standards Committee (ideally the same independent member who was involved in the shortlisting process) should attend the Appointments Panel meeting as an advisor; the reason for this is that it is more than likely that none of the members of the Appointments Panel will be members of the Standards Committee and in a position to answer detailed questions about the role. It is recommended that the independent Standards Committee members should act only in an advisory role and should not have any voting rights on the Appointments Panel.

3.8 Having interviewed the candidates, the Appointments Panel would then make a recommendation to the full Council as to which candidate should be selected. The candidate would be appointed at the next available meeting of the full Council.

Term of Office

3.9 The SBE advises that, although there is no maximum term of office for an independent member, the term of office should be 4 years which is long enough to gain an understanding of the committee, the Council and its workings, but not so long that they could be perceived as losing their independence. The SBE also recommends that independent members should serve a maximum of two terms of office which is a maximum of 8 years. This is the basis on which the Council has always appointed its independent members but Members are asked to reaffirm that policy.

3.10 However, some of the independent members’ initial appointments were for a period of less than 4 years (to achieve the staggering of their terms of office). This means that some have already been appointed twice, but for a total period of less than 8 years. Members are requested to decide the maximum number of times an independent member may be appointed to the Standards Committee; officers recommend that the SBE guidance is followed and that independent members may only be reappointed once.

4. FINANCIAL IMPLICATIONS

4.1 None

5. LEGAL IMPLICATIONS
5.1 The requirements for the composition of the Standards Committee are specified in the Local Government Act 2000 as amended by the Local Government and Public Involvement in Health Act 2007, and the detailed requirements are set out in the Standards Committee (England) Regulation 2008. Additional details have been decided by Council as part of the Articles of Constitution.

6. COUNCIL OBJECTIVES

6.1 This item does not link with any of the Council’s objectives; it is a statutory requirement.

7. RISK MANAGEMENT

7.1 The main risk associated with the details included in this report is failure to appoint independent members may mean that the Standards Committee is unable to fulfil its statutory functions which may result in intervention from the Standards Board.

7.2 This risk is being managed as follows:

   Risk Register: Legal, Equalities & Democratic Services
   Key Objective Ref No: 2
   Key Objective: Effective ethical governance

8. CUSTOMER IMPLICATIONS

8.1 Vacancies for independent members must be advertised in the local press. In addition, vacancies will be displayed on the Council’s website.

9. EQUALITIES AND DIVERSITY IMPLICATIONS

9.1 Recruitment and selection will be undertaken by officers and members who have received appropriate training in recruitment and selection.

10. VALUE FOR MONEY IMPLICATIONS

10.1 None

11. OTHER IMPLICATIONS

<table>
<thead>
<tr>
<th>Category</th>
<th>Implication</th>
</tr>
</thead>
<tbody>
<tr>
<td>Procurement Issues</td>
<td>None</td>
</tr>
<tr>
<td>Personnel Implications</td>
<td>None</td>
</tr>
<tr>
<td>Governance/Performance Management</td>
<td>Composition of the Standards Committee forms part of the ethical governance framework</td>
</tr>
</tbody>
</table>
Community Safety including Section 17 of Crime and Disorder Act 1998
Policy
Environmental

<table>
<thead>
<tr>
<th>Policy</th>
<th>None</th>
</tr>
</thead>
<tbody>
<tr>
<td>Environmental</td>
<td>None</td>
</tr>
</tbody>
</table>

12. OTHERS CONSULTED ON THE REPORT

<table>
<thead>
<tr>
<th>Portfolio Holder</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chief Executive</td>
<td>No</td>
</tr>
<tr>
<td>Executive Director - Partnerships and Projects</td>
<td>No</td>
</tr>
<tr>
<td>Executive Director - Services</td>
<td>No</td>
</tr>
<tr>
<td>Assistant Chief Executive</td>
<td>No</td>
</tr>
<tr>
<td>Head of Service</td>
<td>Yes</td>
</tr>
<tr>
<td>Head of Financial Services</td>
<td>Yes</td>
</tr>
<tr>
<td>Head of Legal, Equalities &amp; Democratic Services</td>
<td>Yes</td>
</tr>
<tr>
<td>Head of Organisational Development &amp; HR</td>
<td>No</td>
</tr>
<tr>
<td>Corporate Procurement Team</td>
<td>No</td>
</tr>
</tbody>
</table>

13. WARDS AFFECTED

All wards

14. APPENDICES

None

15. BACKGROUND PAPERS

None

CONTACT OFFICER

Name: Debbie Warren
E Mail: d.warren@bromsgrove.gov.uk
Tel: (01527) 881609
This page is intentionally left blank