



Agenda

Council

Date:	Monday, 5 July 2021 at 7:00 pm
Venue:	Lowther Pavilion, West Beach, Lytham, FY8 5QQ
	<p>Mayor : Councillor Elaine Silverwood Deputy Mayor : Councillor Cheryl Little</p> <p>Leader : Councillor Karen Buckley Deputy Leader : Councillor Roger Small</p> <p>Councillors Ben Aitken, Frank Andrews, Peter Anthony, Tim Armit, Mark Bamforth, Brenda Blackshaw, Paula Brearley, Julie Brickles, Alan Clayton, Delma Collins, Peter Collins, Chris Dixon, Sue Fazackerley MBE, Trevor Fiddler, Ellie Gaunt, Brian Gill, Shirley Green, Noreen Griffiths, Peter Hardy, Will Harris, Gavin Harrison, Paul Hayhurst, Karen Henshaw JP, Paul Hodgson, Angela Jacques, John Kirkham, Matthew Lee, Roger Lloyd, Michelle Morris, Kiran Mulholland, Ed Nash, Sally Nash-Walker, Jayne Nixon, Linda Nulty, Liz Oades, David O'Rourke, Richard Redcliffe, Bobby Rigby, Michael Sayward, Vince Settle, John Singleton JP, Heather Speak, Ray Thomas, Tommy Threlfall, Stan Trudgill, Viv Willder, Michael Withers.</p>

	PROCEDURAL ITEMS:	PAGE
1	Declarations of Interest: Declarations of interest, and the responsibility for declaring the same, are matters for elected members. Members are able to obtain advice, in writing, in advance of meetings. This should only be sought via the Council's Monitoring Officer. However, it should be noted that no advice on interests sought less than one working day prior to any meeting will be provided.	1
2	Confirmation of Minutes: To confirm the minutes, as previously circulated, of the Annual General Meeting held on 26 May 2021 as a correct record.	1
	ANNOUNCEMENTS:	
3	Mayor's Announcements	1
4	Chief Executive's Communications	1
	REPRESENTATIONS:	
5	Questions from Members of the Council	3 - 4
6	Questions from Members of the Public For procedure to ask a question at a Council meeting see Public Speaking at Council Meetings .	5
	DECISION ITEMS:	

7	Deputy Mayor's Allowance	6 - 19
8	Appointment of Chairman and Vice Chairman	20 - 21
9	Regulation of Investigatory Powers Act (RIPA) Policy	22 - 47
10	Fully Funded Addition to the Capital Programme - Fairhaven Kiosk/Ice Cream Bar - Stanner Bank	48 - 50
11	Fully Funded Capital Budget Increase - St Annes Sea Wall Scheme	51 - 54
12	Fully Funded Capital Budget Increase and Award of Grant - Kirkham Future High Street Fund	55 - 57
13	Unfunded Revenue Budget Increase – Economic Development Team Resourcing	58 - 60
14	Fully Funded Revenue Budget Increase - Education Contribution Relating to Sec. 106 Agreement for Development at the Former Government Offices Site, Heyhouses Lane, Lytham St Annes	61 - 63
15	Purchase of Land Adjacent to Squires Gate Station - CPO Request	64 - 68

Contact: Katharine McDonnell - Telephone: (01253) 658423 – Email: democracy@fylde.gov.uk

The code of conduct for members can be found in the council's constitution at

<http://fylde.cmis.uk.com/fylde/DocumentsandInformation/PublicDocumentsandInformation.aspx>

© Fylde Borough Council copyright 2021

You may re-use this document/publication (not including logos) free of charge in any format or medium. You must re-use it accurately and not in a misleading context.

The material must be acknowledged as Fylde Borough Council copyright and you must give the title of the source document/publication.

Where we have identified any third party copyright material you will need to obtain permission from the copyright holders concerned.

This document/publication is also available on our website at www.fylde.gov.uk

Any enquiries regarding this document/publication should be sent to us at the Town Hall, St Annes Road West, St Annes FY8 1LW, or to listening@fylde.gov.uk.

REPRESENTATIONS

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	COUNCIL	5 JULY 2021	5
QUESTIONS FROM MEMBERS OF THE COUNCIL			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

One question has been received from a Member of the Council before the requisite deadline, as outlined in Procedural Standing Orders for Council and Committees of Part 4 of the Council's Constitution, and before the statutory deadline for publication of the agenda.

If any further questions are received before the constitutional deadline, as outlined above, they will be circulated prior to the meeting for members' information, under separate cover.

Any questions will be heard during the Council meeting on 5 July 2021 and a response will be given by the Leader of the Council or any other member nominated by her.

Question 1 – Received from Councillor Brian Gill

"My question concerns the hot topic in Lytham and St Annes On Sea at the moment; the St Annes Sea Wall Defence Project.

Having reviewed the material presented on the website and correspondence received from officers, a number of concerns arise.

Why such a traditional approach?

Why are we not prioritising the protection of our beach, which is the main attraction for tourists and residents alike?

Why have we had limited consultation? It appears that only the residents that the Council considers will be affected and a select set of stakeholders have been officially informed. In reality, the proposal will impact the majority of residents on the Fylde plus the tourists we are desperately trying to encourage to visit our area.

Why are we impacting the environment by building with concrete, which is the third largest contributor to greenhouse gases, when the government has a net zero target? What other innovative solutions have been looked at, i.e a soft impact absorbing structure.

Have studies been performed on the effect of longshore drift on the sand dunes, which we are also trying to protect? This will be exacerbated by the proposed design.

Why have we not considered a mix of soft and hard defence solutions?

I have not even touched on the potential visual effects of such a high wall, nor the impact on businesses by using their real estate.

It seems that we are rushing through a proposal to meet an artificial deadline defined by the Environment Agency to secure funds. It is interesting to note that the Council posted on the 18th of May that they had been working on options for replacing the existing sea wall for the last six months. The general public became aware of this proposal mid May. Why was this not made public before the deadline for the proposal was fast approaching?

Therefore, my question to council is this. Can the Council confirm that additional measures are being introduced to look at a further range of solutions for such an important project that will have a major impact on the Fylde Coast, environmentally, economically and socially including additional consultation with all Fylde residents to address any outstanding questions and concerns, only some of which I have touched upon here?"

REPRESENTATIONS

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	COUNCIL	5 July 2021	6
QUESTIONS FROM MEMBERS OF THE PUBLIC			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

As outlined in Article 15 – Public Speaking at meetings of the Council and its Committees any resident of the Councils district may, subject to various provisions of the article, ask a question at an ordinary meeting of the council.

Two questions have been received from members of the public before the requisite deadline, as outlined in Article 15, before the statutory deadline for publication of the agenda.

If any further questions are received before the constitutional deadline, which is, for the purpose of this meeting, 4.30pm on Tuesday 29th June 2021, they will be circulated prior to the meeting for members' information, under separate cover.

Any question(s) will be heard during the Council meeting on 5 July 2021 and a response will be given by the Leader of the Council or any other member nominated by her.

Question 1 from L Skinner

- "1.Are you seriously contemplating not accommodating the Little Train in the finished works?*
- 2 How would the increased height of the wall affect the lifeboat station?*
- 3. How would the increased height impact on the sea views ?*
- 4 How many times in recent history has the sea caused flooding along this stretch?*
- 5. What about the stretch of dunes between Fairhaven and this new proposed area?"*

Question 2 from H Leeming

"Given the strength of public opinion in regard to saving St. Annes Miniature Railway, can the council please confirm that they are now fully committed to finding a solution that includes the attraction being retained on the seafront and promenade. Our written petition remains ongoing receiving more signatures every day. While we had a very positive meeting with the council representatives in regard to our future, we still have no guarantees in terms of our lease being renewed and definitive plans for the future, when do the council feel they will be in a position to deliver this to us?"

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	COUNCIL	5 JULY 2021	7
DEPUTY MAYOR'S ALLOWANCE			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

In 2020 the Independent Remuneration Panel were asked to provide an opinion on the level of the Deputy Mayor's allowances when considering the councillors' allowances scheme. In reaching their view the Panel took into consideration the level of attendance at events and support to fundraising efforts the Deputy Mayor provides to the Mayor. Their view was to increase the Deputy Mayor's allowance by 30% to £2394 per annum. At the Council meeting, held on 19 October 2020, members agreed to adopt the recommendation from the Independent Remuneration Panel in relation to the councillors' allowances scheme but deferred the consideration of the Deputy Mayor's allowance to a future meeting.

RECOMMENDATION

1. To accept the recommendation of the Independent Remuneration Panel to increase the Deputy Mayor's allowance from £1,842 to £2,394 with effect from 1st April 2021
2. Approve an unfunded revenue budget increase in respect of the above changes to Deputy Mayor's Allowances in the sum of £552 per annum from 2021/22 onwards.

SUMMARY OF PREVIOUS DECISIONS

[Council 19 October 2020](#)

RESOLVED to adopt the following recommendations of the Independent Remuneration Panel with effect from 1 April 2021:

1. No increase to the level of basic allowance and special responsibility allowances but to maintain them,
2. Maintain the present level of travel and subsistence allowances and dependent carers' allowance for 2021/22;
3. To maintain the allowance paid to the three Independent Persons at £800 per person per annum, with the cost to be shared equally with Blackpool;
4. To defer the consideration of the increase of the Deputy Mayor's allowance from £1,842 to £2,394 to a future meeting; and
5. To defer any increase to the revenue budget until such a time the subject of recommendation 4 had been considered.

[Council 14 October 2019.](#)

The decision of the Council at that meeting was to increase the level of allowances.

CORPORATE PRIORITIES	
Economy – To create a vibrant and healthy economy	
Environment – To deliver services customers expect	
Efficiency – By spending money in the most efficient way	√
Tourism – To create a great place to live and visit	

REPORT

1. The Local Authorities (Members' Allowances) (England) Regulations 2003 provide for local authorities to establish and maintain an independent remuneration panel. The purpose of the panel is to make recommendations to the council about the allowances to be paid to elected members.
2. The Council must have regard to the recommendations of the panel.
3. Local authorities must include in their scheme of allowances a basic allowance, payable to all members, and may include provision for the payment of special responsibility allowances and a dependants' carers' allowance. The Regulations allow the inclusion of a travel and subsistence and a co-optees' allowance within an allowances scheme. These allowances are discretionary.
4. The Council, at the meeting held on 19 October 2020, made recommendations concerning the Council's scheme but deferred the consideration of the Deputy Mayor's allowance to a future meeting.
5. The proposed increase in the Deputy Mayor's allowance was as a result of a review by the Independent Remuneration Panel. In reaching their view the Panel took into consideration the level of attendance at events and support to fundraising efforts the Deputy Mayor provides to the Mayor as well as undertaking a benchmarking exercise against other districts. Their view was to increase the Deputy Mayor's allowance by 30% to £2394 per annum.
6. Members are asked to consider the parts of the two documents below that refer to the Deputy Mayor's Allowance:

Appendix 1: [The report to the independent panel](#); and

Appendix 2: [A note of the panel's deliberations and recommendations](#).

IMPLICATIONS	
Finance	The Council's base revenue budget includes recurring provision of £271.352 per annum for the member's allowance scheme. The effect of the change proposed to the Mayoral budget would be an increase in the annual cost of Allowances in the civic budget of £552 per annum from 2021/22 onwards.
Legal	Payment of members' allowances and the amount of such allowances is discretionary. However, the council is obliged to "have regard" to the recommendations of the independent panel.
Community Safety	None
Human Rights and Equalities	None
Sustainability and Environmental Impact	None
Health & Safety and Risk Management	None

LEAD AUTHOR	CONTACT DETAILS	DATE
Democracy	democracy@fylde.gov.uk	20 June 2021

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Report to remuneration panel	September 2020	Town Hall, Lytham St Annes
Notes of remuneration panel meeting	September 2020	Town Hall, Lytham St Annes
Council report & minutes	19 October 2020	Council reports and minutes

Attached Documents

Appendix 1: The report to the independent panel

Appendix 2: A note of the panel's deliberations and recommendations



DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	MEMBERS' INDEPENDENT REMUNERATION PANEL	14 SEPTEMBER 2020	1
MEMBERS' ALLOWANCES			

PUBLIC/EXEMPT ITEM

This item is for consideration in a meeting that is not open to the public.

SUMMARY

To brief members of the remuneration panel on the factors that may affect their consideration of the proper level of allowances for members of Fylde Council.

RECOMMENDATIONS

Members are asked to reach recommendations for the financial year 2021-22 about:

- The level of basic allowance payable to all councillors
- Which councillors are to receive special responsibility allowances
- The levels of special responsibility allowances
- Whether to continue to pay dependants' carers' allowance and, if so, whether to cap the rates payable; and
- Whether to continue to pay travel and subsistence allowances and, if so, of how much

SUMMARY OF PREVIOUS DECISIONS

The Independent Remuneration Panel last met, to review Members' Allowances, on 13 September 2019.

CORPORATE PRIORITIES	
Spending your money in the most efficient way to achieve excellent services (Value for Money)	✓
Delivering the services that customers expect of an excellent council (Clean and Green)	
Working with all partners (Vibrant Economy)	
To make sure Fylde continues to be one of the most desirable places to live (A Great Place to Live)	
Promoting Fylde as a great destination to visit (A Great Place to Visit)	

REPORT

Introduction

1. As panel members will recall, the Local Authorities (Members' Allowances) (England) Regulations 2003 provide for local authorities to establish and maintain an independent remuneration panel. The purpose of the panel is to make recommendations to the council about the allowances to be paid to elected members.
2. The council must have regard to the recommendations of the panel.
3. Local authorities must include in their scheme of allowances a basic allowance, payable to all members, and may include provision for the payment of special responsibility allowances and a dependants' carers' allowance. The Regulations allow the inclusion of a travel and subsistence and a co-optees' allowance within an allowances scheme. These allowances are discretionary.
4. The existing members' allowances scheme, adopted by the council following consideration of the recommendations of the independent remuneration panel, and which is subject to review in respect of the period commencing 1 April 2021, is as set out as appendix 1. For convenience, the levels of basic and special responsibility allowances presently payable are set out in paragraph 24.
5. Paragraphs 9 to 23 below are based on previously published guidance from the Ministry of Housing, Communities and Local Government on members' allowances, subject to deletion of material now superseded and material not now applicable to Fylde.
6. In summary, the allowances which are or may be payable to members of local authorities are as follows:
 - basic allowance
 - special responsibility allowance
 - dependants' carers' allowance
 - travelling and subsistence allowance.

Budget Provision

7. Historic reductions in funding have meant that the Council has needed to take steps to reduce expenditure and maximise income generating activities in the current and future years. Based on the latest forecast position the Council is currently budgeting for a surplus in the current year followed by deficits in future years. Much uncertainty over future funding remains, with the eagerly awaited outcome of the Fair Funding Review into the funding arrangements for Local Government being delayed from publication in 2019 to 2021 at the earliest. In addition, the financial impact of the COVID19 pandemic on the Council continues to be assessed. Whilst the Government have provided initial funding to Councils to cover costs and offset lost income, the impact in the medium term on income received from Council Tax and Business Rates which fund the delivery of services provided by the council remains unclear. Consequently, the Council continues to explore and implement where possible opportunities to reduce expenditure including taking advantage of efficiency-savings achieved through the restriction on non-essential spending and to maximise income generating activities.
8. The annual recurring budgeted cost of members' allowances and expenses to the council based on the present allowances scheme is set out in Table 1 –

Table 1 – Annual Estimated Members Allowances & Expenses – Budget provision 2020/21

• Basic Allowances	£205,200
• Independent Person Allowances	£1,050
• Special Responsibility Allowances	£59,802
• National Insurance	£1,500
• Car Mileage	£3,800
• Total Budget Provision	£271,352

Basic allowance

9. Each local authority must make provision in its scheme of allowances for a basic, flat rate allowance payable to all members of the authority. The allowance must be the same for each member. The allowance may be paid in a lump sum, or in instalments through the year.
10. Basic allowance is intended to recognise the time commitment of all councillors, including such inevitable calls on their time as meetings with officers and constituents and attendance at political group meetings. It is also intended to cover incidental costs such as the use of their homes.

Special responsibility allowance

11. Each local authority may also make provision in its scheme for the payment of special responsibility allowances for those councillors who have significant responsibilities. Special responsibility allowance may be payable for duties which fall within the following categories:
 - acting as leader or deputy leader of a political group
 - presiding at meetings of a committee, sub-committee, or joint committee
 - representing the authority at meetings of another body
 - membership of a committee or sub-committee which meets with exceptional frequency or for exceptionally long periods
 - acting as a spokesperson for a political group on a committee or sub-committee
 - membership of a panel dealing with licensing or controlling any activity
 - any other activities in relation to the discharge of the authority's functions as to require equal or greater effort of the member than any of the activities listed above.
12. A scheme must also specify the amounts of allowance to be paid for each such responsibility.
13. Where, as at Fylde, one political group is in control, and where an authority has decided to pay special responsibility allowances, the authority must make provision for the payment of a special responsibility allowance to at least one member of a minority group.

Dependants' carers' allowance

14. A scheme of allowances may also include the payment of a dependants' carers' allowance to those councillors who incur expenditure for the care of children or other dependants whilst undertaking particular duties. These duties are specified in the Regulations and are as follows:
 - a meeting of the authority
 - a meeting of a committee or sub-committee of the authority
 - a meeting of some other body to which the authority make appointments or nominations, or
 - a meeting of a committee or sub-committee of a body to which the authority make appointments or nominations
 - a meeting which has both been authorised by the authority, a committee, or subcommittee of the authority, and to which representatives of more than one political group have been invited
 - a meeting of a local authority association of which the authority is a member
 - duties undertaken on behalf of the authority in connection with the discharge of any function of the authority conferred by or under any enactment and empowering or requiring the authority to inspect or authorise the inspection of premises
 - any other duty approved by the authority in connection with discharging the duties of the authority or its committees or sub-committees.

Travelling and subsistence allowance

15. Each local authority may also make provision in its scheme for the payment of a travelling and subsistence allowance to its members. This may include provision for the payment of an allowance for those members who travel by bicycle or other non-motorised transport.
16. The Regulations provide that travelling and subsistence allowances may be paid for:
 - a meeting of the authority
 - a meeting of a committee or sub-committee of the authority
 - a meeting of some other body to which the authority make appointments or nominations
 - a meeting of a committee or sub-committee of a body to which the authority make appointments or nominations
 - a meeting which has both been authorised by the authority, a committee, or subcommittee of the authority or a joint committee of the authority and one or more other authorities, and to which representatives of more than one political group have been invited
 - a meeting of a local authority association of which the authority is a member
 - duties undertaken on behalf of the authority in connection with the discharge of any function of the authority conferred by or under any enactment and empowering or requiring the authority to inspect or authorise the inspection of premises
 - any other duty approved by the authority in connection with discharging the duties of the authority or its committees or sub-committees.

Backdating of Allowances

17. When a scheme of allowances is amended, an authority may choose to apply the amendment retrospectively to the beginning of the financial year in which the amendment is made.
18. Where a councillor takes on duties entitling them to a different level of allowances (e.g. where a councillor is appointed to a position entitling them to special responsibility allowance), the new level of allowances may be applied retrospectively to the time at which the circumstances changed.
19. Independent remuneration panels may make recommendations, where relevant, as to whether the payments on which they have made a recommendation may be backdated. Authorities will be required to have regard to these recommendations.

Annual Adjustments of Allowance levels

20. A scheme of allowances may make provision for an annual adjustment of allowances to be ascertained by reference to an index as may be specified by the authority and contained in the scheme. The scheme must be publicised each year, whether or not it has been amended.
21. Where the only change made to a scheme is that caused by the annual impact of an index contained within that scheme, the scheme shall not be deemed to have been amended, and thus an authority will not have to seek a recommendation from its independent remuneration panel.
22. Where a panel makes a recommendation that allowance levels should be determined according to an index, it should also make a recommendation as to how long the index should run before reconsideration. In any case, an index may not run for more than four years before a further recommendation on it is sought from an independent remuneration panel.

Forgoing allowances

23. A scheme must provide that a person may forgo all or part of any allowances to which they are entitled. To do this they must give notice in writing to the proper officer of the authority.

Basic and special responsibility allowances at Fylde Council

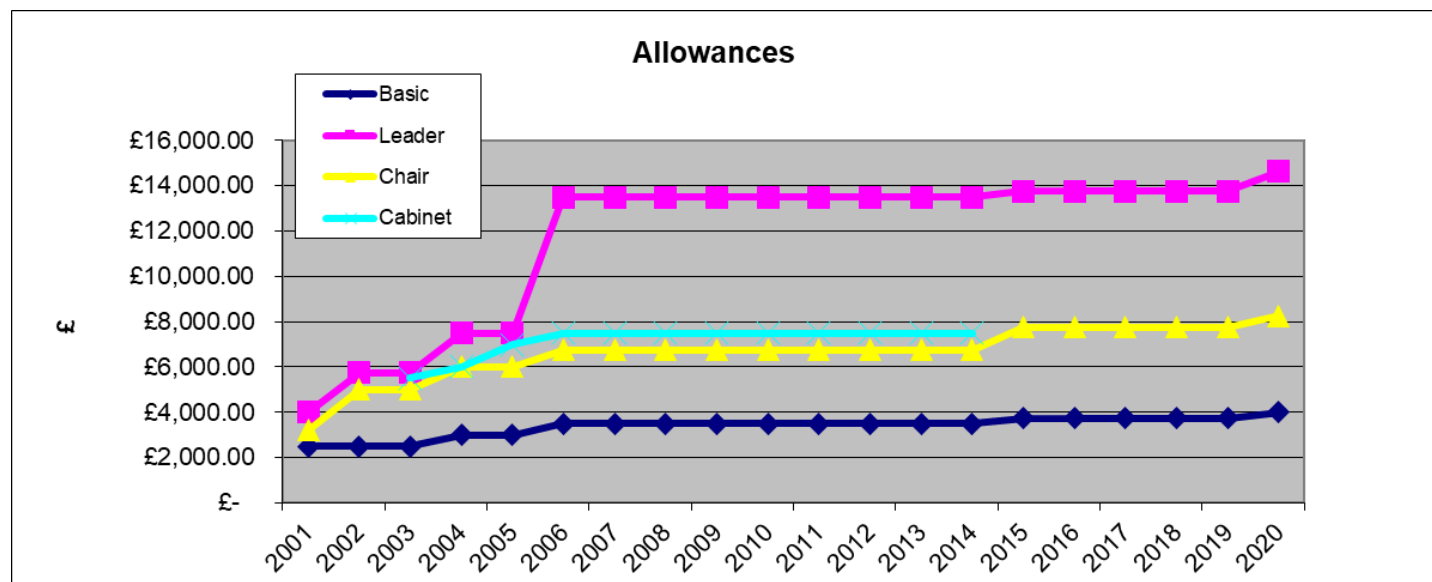
24. The present allowances scheme at Fylde, which was approved at the Council meeting of 14 October 2019 and reflected unchanged following the recommendations of the panel last year, provides for a basic allowance of £4,000 and the following special responsibility allowances:

Leader of the Council – £10,625
 Deputy Leader – £3,190
 Chairmen of Programme Committees and Planning Committee – £4,250
 Vice Chairmen of above – £2,125
 Chairman of Audit and Standards – £3,450
 Vice-Chairman of Audit and Standards – £1,725
 Chairmen of Public Protection and Licensing – £1,725
 Vice-Chairmen of above – £865
 Chairman of Member Development Steering Group – £2,125
 Leader of each political group – £34 a member

Historical data

25. The following table and graph show allowance levels at Fylde since 2001. Please note that the figures for leader and chairman include both the basic allowance payable to all councillors and the special responsibility allowance payable for their particular position (but excludes the allowance paid to the Leader as leader of a political group, which varies according to the membership of the group, but is presently £1,054).

	Basic	Leader	Chairman
2001	£ 2,500.00	£ 4,000.00	£ 3,200.00
2002	£ 2,500.00	£ 5,750.00	£ 5,000.00
2003	£ 2,500.00	£ 5,750.00	£ 5,000.00
2004	£ 3,000.00	£ 7,500.00	£ 6,000.00
2005	£ 3,000.00	£ 7,500.00	£ 6,000.00
2006	£ 3,500.00	£ 13,500.00	£ 6,750.00
2007	£ 3,500.00	£ 13,500.00	£ 6,750.00
2008	£ 3,500.00	£ 13,500.00	£ 6,750.00
2009	£ 3,500.00	£ 13,500.00	£ 6,750.00
2010	£ 3,500.00	£ 13,500.00	£ 6,750.00
2011	£ 3,500.00	£ 13,500.00	£ 6,750.00
2012	£ 3,500.00	£ 13,500.00	£ 6,750.00
2013	£ 3,500.00	£ 13,500.00	£ 6,750.00
2014	£ 3,500.00	£ 13,500.00	£ 6,750.00
2015	£ 3,750.00	£ 13,750.00	£ 7,750.00
2016	£ 3,750.00	£ 13,750.00	£ 7,750.00
2017	£ 3,750.00	£ 13,750.00	£ 7,750.00
2018	£ 3,750.00	£ 13,750.00	£ 7,750.00
2019	£ 3,750.00	£ 13,750.00	£ 7,750.00
2020	£ 4,000.00	£ 14,625.00	£ 8,250.00

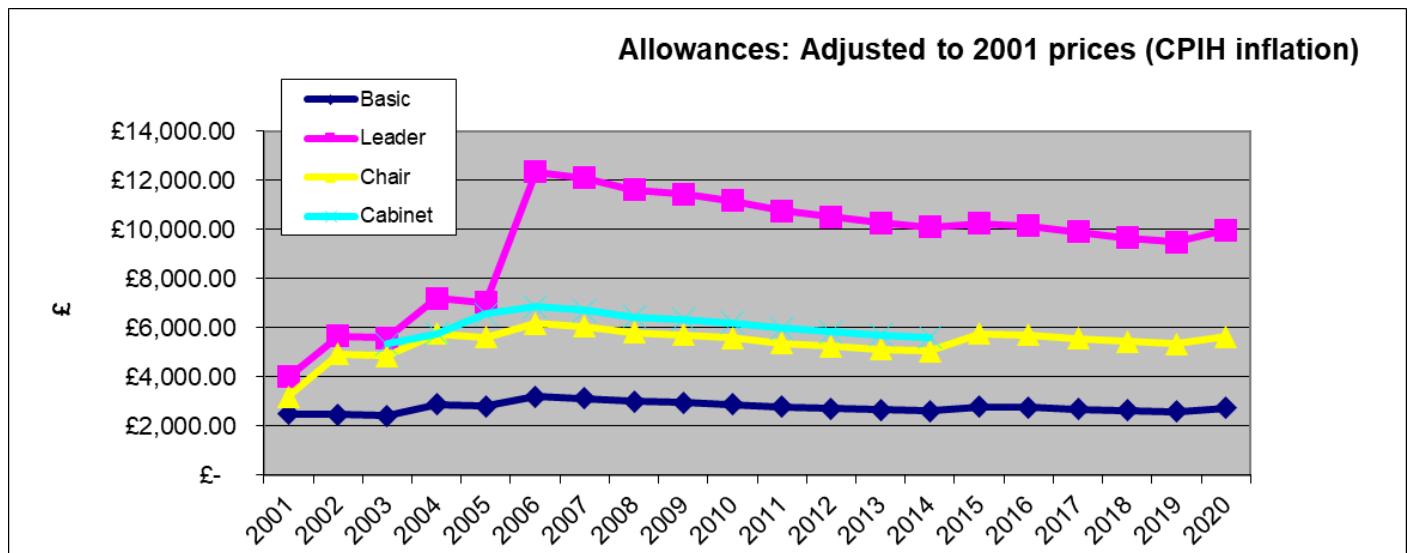


The following table and graph¹ shows the same data adjusted for inflation² since 2001:

	Basic	Leader	Chair	Cabinet
2001	£ 2,500.00	£ 4,000.00	£ 3,200.00	
2002	£ 2,463.62	£ 5,666.34	£ 4,927.25	
2003	£ 2,431.46	£ 5,592.36	£ 4,862.92	£5,349.22
2004	£ 2,876.45	£ 7,191.12	£ 5,752.90	£5,752.90
2005	£ 2,811.32	£ 7,028.30	£ 5,622.64	£6,559.75
2006	£ 3,199.39	£ 12,340.49	£ 6,170.25	£6,855.83
2007	£ 3,137.79	£ 12,102.89	£ 6,051.44	£6,723.83
2008	£ 3,010.97	£ 11,613.74	£ 5,806.87	£6,452.08
2009	£ 2,963.07	£ 11,428.98	£ 5,714.49	£6,349.43
2010	£ 2,897.22	£ 11,175.00	£ 5,587.50	£6,208.33
2011	£ 2,788.77	£ 10,756.68	£ 5,378.34	£5,975.94
2012	£ 2,724.66	£ 10,509.40	£ 5,254.70	£5,838.56
2013	£ 2,660.71	£ 10,262.76	£ 5,131.38	£5,701.53
2014	£ 2,617.97	£ 10,097.89	£ 5,048.95	£5,609.94
2015	£ 2,793.75	£ 10,243.75	£ 5,773.75	£ -
2016	£ 2,768.83	£ 10,152.38	£ 5,722.25	
2017	£ 2,699.28	£ 9,897.34	£ 5,578.50	
2018	£ 2,638.10	£ 9,673.04	£ 5,452.08	
2019	£ 2,586.81	£ 9,484.95	£ 5,346.06	
2020	£ 2,728.94	£ 9,977.68	£ 5,628.43	

¹ The allowance shown for those members receiving a special responsibility allowance includes their basic allowance and their special responsibility allowances, other than allowances as group leaders.

² The measure of inflation used in previous years has been the Retail Prices Index (RPI), which, though still published, is no longer regarded as a national statistic. The index used this year is the Consumer Prices and Housing Index (CPIH), which is now the ONS lead index for consumer prices.



Comparisons with other authorities

26. Officers have carried out a survey of current members' allowances schemes, which is included as appendix 2. The survey covers all other district councils in Lancashire. The comparative information below is taken from this survey except where noted. Members will note that Blackburn with Darwen and Blackpool are unitary authorities, which deal with the whole range of council functions.
27. Other district councils have changed to a committee system since the Localism Act 2011 made it possible to do so. The spreadsheet at appendix 2 includes information about allowances payable by four such authorities.
28. For ease of reference, I set out comparisons between Fylde and relevant averages below:
- The basic allowance³ at Fylde (£4,000) is **below** the average for all councils in Lancashire (£4,671) and **below** the average for shire districts in Lancashire (£4,005). However, the cost of basic allowance per head of population per year is the highest among shire districts in Lancashire (£2.56).
 - The special responsibility allowance for the leader of the council at Fylde (£10,625) is **below** the average for all councils in Lancashire (£14,851) and **below** the average for shire districts in Lancashire (£13,077).

Other matters

29. Following consultation with the Chairman of the Panel, Group Leaders were invited to submit comments to the Panel to consider as a part of their deliberations. Councillor Karen Buckley, Leader of the Council, has requested that the following is drawn to the attention of the Panel on behalf of her Group. The Leader of the Opposition did not wish to put any comments forward to the Panel on this occasion.

- We would like the allowance for Mayor and Deputy Mayor to be included in the list for review (as I believe this hasn't been reviewed for many years) and because there is a disparity between the two allowances (£11,207/£1,842).*
- We would like the panel to consider whether they think it appropriate to link annual increases in allowances to staff salary increases so, for example, if salaries increase by 2% then so do the council allowances or to link it to inflation.*

³ Figures rounded to the nearest pound

30. With respect to Mayoral Allowances, based on a request earlier this year, research was undertaken regarding the respective level of allowances for both the Mayor and Deputy Mayor both within Lancashire and compared against out CIPFA family group. The outcome of this research is set out below for information. Whilst consideration of mayoral allowances sits outside of the formal role of the Panel, it would be permissible for the Panel to make observations on the level of remuneration for this office if it wished to do so. The mayoral allowances at Fylde Council are currently uplifted each year in line with inflation.

Mayoral Allowances (Lancashire) 2018/19

Local Authority	Mayor	Deputy	Deputy's allowance as a % of Mayor's
West Lancashire	£8,910	£1,760	19.7%
Fylde	£11,207	£1,842	16.4%
Chorley	£9,750	£1,950	20%
Blackburn	£12,000	£4,000	33.3%
Burnley	£6,095	£100	1.6%
Preston	£5,898	£812	13.7%
Hyndburn	£8,367	0	0
Rossendale	£3,500	£500	14.2%
Blackpool	£14,190	£3,441	24.2%
Lancaster	£6,720	£1,335	19.8%
Ribble Valley	£8,660	£1,320	15.2%
South Ribble	£7,800	£2,080	26.6%
Pendle	£5,130	0	0
Wyre	£9,423	£1,848	19.6%

CIPFA Family 2019/20

Council	Mayor/Chairman	Deputy Mayor/ Vice Chairman	Deputy's allowance as a % of Mayor's
Arun	£8,320	£2,745	32.9%
Craven	£3,019	£924	30.6%
East Devon	£7,813	£2,998	38.3%
Fareham	£4,722.40	£885.45	18.7%
Lewes	No response to 2 emails		
North Devon*	£5,000	£500	10%
Rochford	£5,000	£2,500	50%
Rother	£3,330	£550	16.5%
South Hams	£5,254	£1,314	25%
South Lakeland	£1,863	0	0
Teignbridge	£11,978	£2,994	24.9%
West Devon	£3,000	£825	27.5%

***Not an allowance** – a budget which covers hospitality, civic functions costs, travel to civic functions etc.

IMPLICATIONS	
Finance	The Council's base revenue budget includes recurring provision of £271,352 per annum for members' allowances as set out in paragraph 8 of this report. Any increases in allowances will result in increased revenue costs which will require approval by Council in due course.
Legal	The council must take into account the views of the panel when reviewing members' allowances.
Community Safety	
Human Rights and Equalities	The allowances scheme should enable people from all sectors of the community to serve as elected members without suffering a financial detriment by doing so.
Sustainability and Environmental Impact	
Health & Safety and Risk Management	

LEAD AUTHOR	CONTACT DETAILS	DATE
Ian Curtis	01253 658506	20 August 2020

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection

Attached documents

Appendix 1 Existing Members Allowance Scheme

Appendix 2 Allowance Schemes at Other Authorities

**INDEPENDENT REMUNERATION PANEL –
NOTE OF MEETING HELD ON 14 SEPTEMBER 2020 via ZOOM**

Present: Mr David Cam, Chairman

Mrs Helen Hockenhull

Mrs Karen Eaton

Tracy Manning, Director of Resources

Ian Curtis, Head of Governance

Katharine McDonnell, Senior Democratic Services Officer (note taker)

Tracy Manning welcomed everyone to the meeting.

She advised that since the Panel had last met there had been a change of Leadership and some of the members in senior roles. Following consultation with Chairman of the Panel, she had sought the view of the two group leaders prior to this meeting. The responses from the Leader of the Council were outlined in the report to Panel.

Ian Curtis presented the 2021/2022 Member Allowance Scheme report, a copy of which had previously been circulated to members of the Panel.

The report covered the current level of members' allowances and the special responsibility allowances; dependent carers' allowance; and a comparison of allowances paid in 2006 and 2019. The report also provided information regarding the level of allowances adjusted to 2001 prices (the retail price index); information regarding the different allowances, the annual budgeted amount for members' allowances and the Council's financial position. He advised that the advice from the Chief Financial Officer was that the level of future funding was uncertain.

Mr Curtis discussed the current Special Responsibility Allowances, and the ability of the Panel to set an allowance and link the allowances to an index. He explained that the allowances would then increase with the index but there would be a need to review the allowances every four years rather than annually.

The report provided a detailed spreadsheet comparing the allowances paid by other Lancashire authorities and authorities who operated a committee system.

It was noted by the Panel, that whilst the Fylde allowances were average in comparison to other authorities, when looking at the allowances on a per member, per resident basis, Fylde's allowances were the highest in Lancashire.

Turning to the comments from Leader of the Council, the Panel discussed the linking of the allowances to an index which could be implemented for up to a four year period. It was noted that some other authorities did so, and whilst it would be reasonable for Fylde allowances to be index linked, the Panel felt on balance that to make the change mid-term would be unwise. It was felt that the matter should be revisited in 2022, so any changes could be considered prior to the start of the new term of office.

In regards to the Mayoral allowances, Mr Curtis advised that whilst it was not strictly within the statutory remit of the Panel, the Panel were permitted to offer an opinion on the level of allowances. Mr Curtis provided some comparison data for the mayoral allowances, looking at other Lancashire authorities and CIPFA families.

The panel discussed the level of the Deputy Mayor's allowances, the level of attendance of the Deputy Mayor at events and the commitment of the Deputy Mayor in supporting the Mayor's charity fundraising. In response to a question from the Panel, Mrs Manning advised that the mayoral allowances were increased every year linked to the Retail Price Index.

The Panel thanked Ian for his report and presentation.

The Panel considered their recommendations for the financial year 2021-22 regarding:

- The level of basic allowance payable to all councillors
- Which councillors are to receive special responsibility allowances
- The levels of special responsibility allowances
- Whether to continue to pay dependants' carers' allowance and, if so, whether to cap the rates payable; and
- whether to continue to pay travel and subsistence allowances and, if so, of how much

The Panel discussed the increase made to allowances last year and the impact on council finances and loss of income this year. It was considered that it would not be prudent to increase any of the allowances again this year and therefore the Panel recommended that there would be no increase in the basic allowance or the SRAs and group leader payments.

The Panel confirmed that the for dependents' carers' allowance and travel allowances be maintained as present.

The Panel noted commentary regarding the workload of the Deputy Mayor and recommended a 30% increase for the Deputy Mayor from 2021/22.

Mr Cam thanked the other Panel members for their attendance and consideration of the matters at hand and thanked the officers for their work and advice.

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	COUNCIL	5 JULY 2021	8
APPOINTMENT OF CHAIRMAN AND VICE CHAIRMAN			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

Following on from the recent Lancashire County Council elections, where Councillor John Singleton was elected to represent the Fylde West division, Councillor Singleton has now given notice of his intention to step down from his role as Chairman of Audit and Standards Committee on 1st September 2021.

As Councillor Singleton's new role on Lancashire County Council, and the Combined Fire Authority, is commanding a significant amount of his time, Councillor Singleton feels he cannot give the Audit and Standards Committee the time it deserves.

RECOMMENDATIONS

1. That Councillor Eleanor Gaunt be appointed Chairman of the Audit and Standards Committee with effect from 1st September 2021;
2. That Councillor Ed Nash be appointed Vice Chairman of Audit and Standards Committee, to commence his role with effect from 1st September 2021; and
3. That the Council places on record its thanks for Councillor John Singleton's work, time and commitment for his past 14 years service on the Audit Committee (latterly Audit and Standards), 13 years of which he served as Chairman.

SUMMARY OF PREVIOUS DECISIONS

19 April 2021 – Council – Confirmation of Committees and Allocation of Membership for the municipal year 2021/22. This decision included the appointment of committee chairman.

CORPORATE PRIORITIES	
Economy – To create a vibrant and healthy economy	✓
Environment – To deliver services customers expect	✓
Efficiency – By spending money in the most efficient way	✓
Tourism – To create a great place to live and visit	✓

REPORT

1. On 6th May 2021, Councillor John Singleton JP was elected to represent Fylde West division on Lancashire County Council. Since then Councillor Singleton has been appointed to represent Lancashire County Council on the Combined Fire Authority.
2. With his new roles commanding a significant amount of his time, Councillor Singleton has given notice, to the Leader of the Council, and the Monitoring Officer, that he wishes to be replaced as Chairman of Audit and Standards Committee. He feels he can no longer give the committee the time it deserves.
3. It is proposed that the current Vice Chairman, Councillor Eleanor Gaunt is appointed as the new Chairman, but to allow for a period of handover, it is proposed that Councillor Gaunt take up the new position with effect from 1st September 2021.
4. The remit of the Audit and Standards Committee is far reaching and significant one, playing an important role in providing assurance and oversight to the governance of the council, both financially and constitutionally. It also has an important role to play in upholding the standards of the council.
5. The period between Council making a decision to appoint a new Chairman and the new Chairman taking up the role, will allow for Councillor Singleton to complete some work, currently underway, reviewing the Local Government Association's Model Code of Conduct, relating to member standards. This work is being undertaken in conjunction with Blackpool Council's Standards Committee. Representatives of the two authorities committees are due to meet over the summer, with a report to Audit and Standards due in Autumn 2021.
6. This period, will also allow for Councillor Singleton to undertake a full handover of audit and standards matters with his replacement. Councillor Singleton has served on Audit Committee (latterly Audit and Standards) for 14 years, 13 years as Chairman. He has a wealth of knowledge and experience to impart. This period will also allow for Councillor Gaunt to be introduced to the council's new auditors with introductions facilitated by Councillor Singleton.
7. As Councillor Gaunt is nominated to take up the role of new Chairman, it creates a vacancy of Vice Chairman to the committee, and as an experienced member of the committee, the Council is asked to appoint Councillor Ed Nash as the new Vice Chairman of Audit and Standards Committee, to commence his role on 1st September 2021.

IMPLICATIONS	
Finance	None arising from the report.
Legal	None arising from the report.
Community Safety	None arising from the report.
Human Rights and Equalities	None arising from the report.
Sustainability and Environmental Impact	None arising from the report.
Health & Safety and Risk Management	None arising from the report.

LEAD AUTHOR	CONTACT DETAILS	DATE
Tracy Manning	Email tracy.manning@fylde.gov.uk & Tel 01253 658521	June 2021

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
None		

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	COUNCIL	5 JULY 2021	9
REGULATION OF INVESTIGATORY POWERS ACT (RIPA) POLICY			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

Under the Regulation of Investigatory Powers Act 2000, the council must have in place a system of authorising, recording and reviewing any surveillance that it carries out that is covered by the act. Its system must comply with the act, regulations and codes of practice. It must have its own RIPA policy.

It is good practice for the council to evaluate and review its RIPA policy annually. It is proposed to amend the policy by providing expanded and updated material on handling and disclosing the product of surveillance.

RECOMMENDATION

Council is recommended to endorse the RIPA policy as updated.

SUMMARY OF PREVIOUS DECISIONS

The council is invited annually to note the use made by the council of surveillance powers and adopt or endorse the council's RIPA policy. The council last did so at its meeting on 20 July 2020.

The Audit and Standards Committee receives quarterly reports on the council's use of surveillance powers.

CORPORATE PRIORITIES

Economy – To create a vibrant and healthy economy	✓
Environment – To deliver services customers expect	
Efficiency – By spending money in the most efficient way	
Tourism – To create a great place to live and visit	

REPORT

THE RIPA FRAMEWORK

1. The Regulation of Investigatory Powers Act 2000 (RIPA) regulates covert investigations by a number of bodies, including local authorities. It was introduced to ensure that individuals' rights are protected while also ensuring that law enforcement and security agencies have the powers they need to do their job effectively.
2. Fylde Council is therefore included within RIPA framework with regard to the authorisation of both directed surveillance and of the use of covert human intelligence sources.
3. Directed surveillance includes the covert surveillance of an individual in circumstances where private information about that individual may be obtained. A covert human intelligence source ("CHIS") is a person

who, pretending to be someone that they are not, builds up a relationship of trust with another person for the purpose of obtaining information as part of an investigation.

4. RIPA introduced a mandatory system of authorisation and review for surveillance activities. Only certain people can be designated to authorise surveillance. Authorisations must be approved by the Magistrates' Court. There must be a centrally-retrievable record of authorisations.
5. As well as the act, the RIPA framework includes statutory instruments and codes of practice issued by the Home Office. Each public authority that can use RIPA must have its own RIPA policy. Inspectors from the Investigatory Powers Commissioners Office ("IPCO") can inspect any public authority's RIPA compliance. The inspections can be rigorous and thoroughgoing.

CONSIDERATION OF RIPA POLICY

6. Like all bodies covered by RIPA, the council is subject to regular inspections by inspectors from the the Information Powers Commissioner's Office ('IPCO'). The council was inspected during 2020, and the inspection report was received shortly after the council endorsed the policy last July. While the report found that the council was compliant in all respects, it suggested that the policy should be amended to recast the guidance on the use of the product of surveillance line with the requirements of the Data Protection Act 2018 and the UK GDPR.
7. The policy with the suggested amendments is attached. There is one minor amendment in paragraph 1.9, but the bulk of the change is in section 6. The new text is set out in *this distinctive font*.
8. Because the suggestion from the IPCO inspector was received very shortly after the previous report to the council, the changes were added to the policy as commentary pending adoption by the council. The previous section 6 (which the new text replaces) is set out below for members' reference.

Replaced text from section 6:

- 6.1 *Authorising Officers are reminded of the guidance relating to the retention and destruction of confidential material as described in paragraph 5.2.9.3 above.*
- 6.2 *Authorising Officers are responsible for ensuring that authorisations undergo timely reviews and are cancelled promptly after directed surveillance activity is no longer necessary. It is good practice for a cancellation application to describe the activity undertaken, any material acquired and how that material is to be managed.*
- 6.3 *Authorising Officers must ensure that the relevant details of each authorisation are sent to the designated officer for registration as described in paragraph 8 below.*
- 6.4 *The authorised officer should retain applications for directed surveillance for 5 years. Where it is believed that the records could be relevant to pending or future criminal proceedings, they should be retained for a suitable further period, commensurate to any subsequent review.*

- 6.5 *Authorising officers must ensure compliance with the appropriate data protection requirements and the relevant codes of practice in the handling and storage of material. Where material is obtained by surveillance, which is wholly unrelated to a criminal or other investigation or to any person who is the subject of the investigation, and there is no reason to believe it will be relevant to future civil or criminal proceedings, it should be destroyed immediately. Consideration of whether or not unrelated material should be destroyed is the responsibility of the Authorising Officer.*
- 6.6 *There is nothing in RIPA that prevents material obtained through the proper use of the authorisation procedures from being used in other investigations. However, you should always bear in mind that the purpose of your surveillance is governed by its authorisation. If the purpose changes, you will need to seek a new authorisation.*

IMPLICATIONS	
Finance	There are no financial implications arising from this report
Legal	Authorisation of surveillance activity gives that surveillance "lawful authority" for the purposes of the European Convention on Human Rights.
Community Safety	CCTV cameras have the capability of being used for purposes falling within the ambit of RIPA. If they were so used, a RIPA authorisation would need to be obtained.
Human Rights and Equalities	See the comments under "Legal"
Sustainability and Environmental Impact	No implications
Health & Safety and Risk Management	Failure to comply with the statutory requirements would lead to an adverse report by the regulator.

LEAD AUTHOR	CONTACT DETAILS	DATE
Ian Curtis	01253 658506 and ian.curtis@fylde.gov.uk	24 June 2021

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Employees' Guide: RIPA	June 2020	Town Hall, Lytham St Annes

Attached documents

Appendix 1 – 2021 RIPA Employees' Guide Policy



Employees' Guide

Regulation of Investigatory Powers Act 2000

Directed Surveillance and Use of Covert Human Intelligence Sources

				Ref. Number	FP 78
Authorised By	Allan Oldfield	Job title	Chief Executive	Issue Date	Dec 2014
Author	Ian Curtis			Revision No	Jun 2021
End users of hard copies of this document are responsible for ensuring their copy is up to date.					

Revised June 2021

1 Introduction

- 1.1 The Regulation of Investigatory Powers Act 2000 (RIPA) regulates covert investigations by a number of bodies, including local authorities. It was introduced to ensure that individuals' rights are protected while also ensuring that law enforcement and security agencies have the powers they need to do their job effectively.
- 1.2 Fylde Council is therefore included within the RIPA framework with regard to the authorisation of both [Directed Surveillance](#) and of the use of [Covert Human Intelligence Sources](#).
- 1.3 The purpose of this guidance is to:
- explain the scope of RIPA and the circumstances where it applies
 - provide guidance on the authorisation procedures to be followed.
- 1.4 The Council has had regard to the Code of Practice produced by the Home Office in preparing this guidance. It is available on the Internet at www.gov.uk/government/publications/covert-surveillance-and-covert-human-intelligence-sources-codes-of-practice.
- 1.5 This policy is reviewed annually by the full council. Additionally, reports on the use of authorisations under RIPA are made to the council's Audit and Standards Committee on a quarterly basis.
- 1.6 In summary RIPA requires that when the Council undertakes [directed surveillance](#) or uses a [covert human intelligence source](#), these activities must satisfy certain conditions and be authorised by an officer with delegated powers and approved by a Justice of the Peace.
- 1.7 The table and paragraphs 1.8 to 1.10 below set out the officers of the council who have delegated powers under RIPA and the extent of their powers:

Job title	Extent of power
Chief Executive	All
Directors	In connection with directorate activities
Director of Resources	In connection with council tax and housing benefits

- 1.8 Personnel matters are for RIPA purposes regarded as being within the province of the Human Resources section and not that of individual directorates. [Covert](#) surveillance of any council employee for the purpose of preventing or detecting crime arising out of their employment by the council

can therefore only be authorised by the Chief Executive or the Director of Resources.

- 1.9 There are special rules that apply where the Council intends to undertake [directed surveillance](#) or use a [covert human intelligence source](#) and the surveillance or use of the source is likely to result in [confidential material](#) or privileged material being acquired. In those circumstances, the chief executive must authorise the use of the source. Nobody else can authorise the surveillance or use of the source unless the chief executive is absent. Even if the chief executive is absent, only the officer acting for the time being as Head of Paid Service can authorise: no other officer can do so.
- 1.10 The same special rules apply where the council intends to use a [covert human intelligence source](#) who is under 18 years old, or who is vulnerable. A person is vulnerable if he or she is or may be in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care of himself, or unable to protect himself against significant harm or exploitation. Again, the chief executive must authorise the use of such a source. Nobody else can authorise the surveillance or use of the source unless the chief executive is absent. Even if the chief executive is absent, only the officer acting for the time being as Head of Paid Service can authorise: no other officer can do so.
- 1.11 The council will only use a person who is vulnerable as a covert human intelligence source in the most exceptional circumstances, and will not use any person who is under 16 years old.
- 1.12 Authorisation and approval under RIPA gives lawful authority to carry out [surveillance](#) and the use of a source. Obtaining authorisation and approval helps to protect the Council and its officers from complaints of interference with the rights protected by Article 8(1) of the European Convention on Human Rights which is now enshrined in English law through the Human Rights Act 1998. This is because any interference with the private life of citizens will be “in accordance with the law”. Provided activities undertaken are also “reasonable and proportionate”, they will not be in contravention of Human Rights legislation.
- 1.13 It should be noted that the Council cannot authorise [Intrusive Surveillance](#). Investigators should familiarise themselves with the provisions of chapters 5 and 6 of the [Code of Practice](#) on Covert Surveillance to ensure a good understanding of the limitation of powers within RIPA.
- 1.14 Deciding when authorisation is required involves making a judgment. [Paragraph 2](#) sets out some factors you will need to consider. If you are in any doubt, seek the advice of an Authorising Officer, if they are in doubt they will

seek advice from the Head of Governance. While it is always safer to get authorisation, many kinds of investigation may not involve the use of the kinds of surveillance covered by RIPA.

- 1.15 The Head of Governance has responsibility for maintaining a centrally retrievable record of authorisations under RIPA and for overseeing:
 - 1.15.1 the integrity of the process in place within the authority to authorise and seek approval of directed surveillance;
 - 1.15.2 compliance with Part II of the 2000 Act, Part III of the 1997 Act and with the codes of practice;
 - 1.15.3 engagement with the Investigatory Powers Commissioner's Office ("IPCO") and inspectors when they conduct their inspections, and
 - 1.15.4 where necessary, overseeing the implementation of any post-inspection action plans.
- 1.16 Before any officer of the Council undertakes or commissions any [surveillance](#) of any individual or individuals they need to assess whether the activity comes within RIPA. In order to do this the following key questions need to be asked.

2 Directed Surveillance

2.1 What is meant by Surveillance?

"Surveillance" includes:

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

2.2 When is surveillance directed?

Surveillance is 'Directed' for the purposes of RIPA if it is [covert](#) and is undertaken:

- a) for the purposes of a [specific investigation](#) or a [specific operation](#);

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

2.3 Is the surveillance covert?

Covert surveillance is that carried out in a manner **calculated** to ensure that subjects of it are unaware it is or may be taking place.

If activities are open and not hidden from the subjects of an investigation, the RIPA framework will normally not apply.

2.4 Is it for the purposes of a specific investigation or a specific operation?

For example, are Town Hall CCTV cameras which are readily visible to anyone walking around the building covered?

The answer is not if their usage is to monitor the general activities of what is happening in the car park. If that usage, however, changes, RIPA may apply.

For example, **if** the CCTV cameras are targeting a particular known individual, and are being used in monitoring his activities, that has turned into a specific operation. However, the operation will only require authorisation if the surveillance is covert.

2.5 Is it in such a manner that is **likely** to result in the obtaining of private information about a person?

"Private information" is any information relating to a person's private or family life.

An investigation that merely gathers intelligence about a person's use of public spaces and premises open to the public would not by itself usually be likely to result in the obtaining of private information.

For example, the fact that a person has visited a particular pub and spoke to another particular person on a particular occasion will not be private information about either of them. But recording information about what they talk about may be. Private information may also be obtained if several

records about what the person did in a public place are analysed together to produce a pattern of behaviour.

If it is likely that observations will not result in the obtaining of private information about a person, then it is outside RIPA framework. However, the use of 'test purchasers' may involve the use of [covert human intelligence sources](#) (see later). If in doubt, speak to your Authorising Officer.

2.6 Otherwise than by way of an immediate response to event or circumstances where it is not reasonably practicable to get authorisation

The Home Office gives the example of an immediate response to something happening during the course of an observer's work, which is unforeseeable.

However, if as a result of an immediate response, a [specific investigation](#) subsequently takes place that brings it within RIPA framework.

2.7 Is using the internet or social media to get information about in individual directed surveillance?

The internet and social media can be valuable resources for investigations. If you use the internet or social media just to identify individuals who might be of interest, you will probably not be doing directed surveillance and would not have to obtain RIPA authorisation. But if you are using them to build up a more complete picture of someone's behaviour and habits, you might need to consider obtaining an authorisation.

The key consideration is whether you are getting private information. If you are only using information you could get the information by casual browsing, that is not likely to be private information. But if you are visiting a site or feed multiple times, or combining information from a number of online sources, to help you with your investigation of an individual, the position may be different. You be carrying out directed surveillance and need an authorisation. The former Office of Surveillance Commissioners issued guidance on when the use of social media and the internet might need authorisation under RIPA. You can read the guidance at [appendix 4](#). You can also look at paragraphs 3.10 to 3.17 of the [Code of Practice](#).

3 Is the Surveillance Intrusive?

3.1 [Surveillance](#) becomes intrusive if it:

- a) is carried out in relation to anything taking place on any **residential premises** or in any **private vehicle**; and

- b) involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device; or
 - c) Is carried out by means of a surveillance device in relation to anything taking place on any residential premises or in any private vehicle but is carried out without that device being present on the premises or in the vehicle, where the device is such that it consistently provides information of the same quality and detail as might be expected to be obtained from a device actually present on the premises or in the vehicle.
- 3.2 Surveillance is also automatically deemed to be intrusive if it relates to certain kinds of premises which are, at the time of the surveillance, being used for legal consultations. The premises are prisons, courts, police stations, legal practitioners' offices and high security hospitals.

The council cannot carry out intrusive surveillance.

4 Covert use of Human Intelligence Source (CHIS)

- 4.1 A person is a Covert Human Intelligence Source if:
- a) he establishes or maintains a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within paragraph b) or c),
 - b) he covertly uses such a relationship to obtain information or provide access to any information to another person; or
 - c) he covertly discloses information obtained by the use of such a relationship or as a consequence of the existence of such a relationship.
- 4.2 A purpose is covert, in relation to the establishment or maintenance of a personal or other relationship, if and only if the relationship is conducted in a manner that is calculated to ensure that one of the parties to the relationship is unaware of that purpose.
- 4.3 An example of a CHIS would be an officer or other person who pretends to form a friendship with a suspect, but who is really using that relationship to secretly obtain information from the suspect.

- 4.4 It would be unusual for the council to use a CHIS, but if you do so, you need to obtain authorisation

5 Authorisations, approvals, renewals and cancellations

5.1 The Process for Authorisation and Approval

- 5.1.1 Obtaining authorisation and approval is a two-stage process. The first stage is to obtain authorisation from an Authorising Officer. Details of Authorising Officers and their remits are in [paragraphs 1.7 to 1.10](#).
- 5.1.2 The second stage is to obtain approval from a Justice of the Peace. This involves applying to the magistrates' court. The council will follow the Home Office [guidance on applying for approval](#). Only qualified lawyers or officers authorised by the council under [section 223 of the Local Government Act 1972](#) can make the application for approval and appear in court.
- 5.1.3 A Justice of the Peace, in considering giving approval to an authorisation, must consider whether the statutory tests have been met and whether the use of the surveillance technique is necessary and proportionate.
- 5.1.4 An authorisation or renewal is not effective until it has been approved by a Justice of the Peace. The investigating officer should not begin the authorised surveillance until it has been approved.

5.2 The Conditions for Authorisation

5.2.1 Directed Surveillance

- 5.2.1.1 For [directed surveillance](#) no officer shall grant an authorisation for the carrying out of directed surveillance unless he believes:

- a) that an authorisation is **necessary** for the purpose of preventing or detecting crime or of preventing disorder and
- b) the authorised [surveillance](#) is **proportionate** to what is sought to be achieved by carrying it out.

- 5.2.1.2 In order to ensure that authorising officers have sufficient information to make an informed decision it is important that detailed records are maintained. As such the [forms](#) listed in the Appendix are to be completed where relevant.

- 5.2.1.3 Authorisations should provide enough flexibility to avoid the need for

amendments to accommodate minor changes in the times or methods of surveillance, while still facilitating effective monitoring of compliance with the authorisation.

5.2.2 Covert Use of Human Intelligence Sources

5.2.2.1 The same principles apply as for [Directed Surveillance](#). (see paragraph [5.1.1](#) above), but there are some additional requirements. The person authorising use of a CHIS must believe that management arrangements for the source satisfy requirements laid down in RIPA and relevant regulations. The requirements are set out in [Appendix 3](#).

5.2.2.2 The conduct so authorised is any conduct that:

- a) is comprised in any such activities involving the use of a [covert human intelligence source](#), as are specified or described in the authorisation;
- b) relates to the person who is specified or described as the person to whose actions as a covert human intelligence source the authorisation relates; and
- c) is carried out for the purposes of, or in connection with, the investigation or operation so specified or described.

5.2.2.3 In order to ensure that authorising officers have sufficient information to make an informed decision it is important that detailed records are maintained. As such the [forms](#) listed in appendix 2 are to be completed where relevant.

5.2.2.4 It is also sensible to make any authorisation sufficiently wide enough to cover all the means required, while still facilitating effective monitoring of compliance with the authorisation.

5.3 Requirements of RIPA

5.3.1 All authorisations **must** be in **writing**. The Appendix to this guidance refers to standard [forms](#), which must be used. **Officers must direct their mind to the circumstances of the individual case with which they are dealing when completing the form.**

5.3.2 Although it is possible to combine two authorisations in one form the Council's practice is for separate forms to be completed to maintain the distinction between [Directed Surveillance](#) and the use of a [source](#).

5.3.3 Authorisations lapse, if not renewed, three months from the date of approval

by the Magistrates Court for directed surveillance and twelve months from date of approval by the Magistrates Court for the conduct or use of a [covert human intelligence source](#). **Nevertheless, the authorising officer must ensure that each authorisation specifies an expiry date.**

- 5.3.4 The person who originally granted the authorisation can renew it in the same terms at any time before it ceases to have effect. If the person who originally granted the authorisation is unavailable, another [person entitled to grant a new authorisation](#) can renew it. Authorisations may be renewed more than once, provided they continue to meet the criteria for authorisation. Any renewal will not be effective unless approved by the Magistrates Court.

But, for the conduct of a [covert human intelligence source](#), an Authorised Officer should not renew unless a review has been carried out and that person has considered the results of the review when deciding whether to renew or not. A review must cover what use has been made of the source, the tasks given to them and information obtained.

- 5.3.5 The benefits of obtaining an authorisation are described in [paragraph 7](#) below.

5.4 Factors to Consider

- 5.4.1 Any [person giving an authorisation](#) should first satisfy him/herself that the authorisation is **necessary** on particular grounds and that the surveillance is **proportionate** to what it seeks to achieve. This will include consideration of the guidance in paragraphs 3.3 to 3.6 of the [Covert Surveillance and Property Interference Code of Practice](#).
- 5.4.2 Particular consideration should be given to **collateral intrusion** on or interference with the privacy of persons other than the subject(s) of [surveillance](#). Such collateral intrusion or interference would be a matter of especial concern in cases where there are special sensitivities, for example in cases of premises used for any form of medical or professional counselling, advice or therapy.
- 5.2.8 An application for an authorisation should include **an assessment of the risk** of any collateral intrusion or interference. The authorising officer must take this into account when considering the proportionality of the surveillance.
- 5.4.3 Those carrying out the [covert surveillance](#) should inform the Authorising Officer if the operation/investigation unexpectedly interferes with the privacy of individuals who are not the original subjects of the investigation or covered by the authorisation in some other way. In some cases the original authorisation may not be sufficient and consideration should be given to

whether a separate authorisation is required.

- 5.4.4 Any person giving an authorisation will also need to be aware of particular **sensitivities in the local community** where the surveillance is taking place or of similar activities being undertaken by other public authorities which could impact on the deployment of surveillance. Where the Authorising Officer considers that conflicts might arise they should consult a senior police officer before granting the authorisation.

5.5 Home Surveillance

- 5.5.1 The fullest consideration should be given in cases where the subject of the surveillance might reasonably expect a high degree of privacy, for instance at his/her home, or where there are special sensitivities.

5.6 Spiritual Counselling

No operations should be undertaken in circumstances where investigators believe that surveillance would lead to them intrude on spiritual counselling between a Minister and a member of his/her faith. In this respect, spiritual counselling is defined as conversations with a Minister of Religion acting in his/her official capacity where the person being counselled is seeking or the Minister is imparting forgiveness, absolution of conscience or counselling concerning appropriate repentance. "Minister of Religion" does not necessarily imply a paid office.

5.7 Confidential Material

- 5.7.1 RIPA does not provide any special protection for [confidential material](#). Nevertheless, such material is particularly sensitive, and is subject to additional safeguards under this guidance.
- 5.7.2 In general, any application for an authorisation that is likely to result in the acquisition of confidential material should include an assessment of how likely it is that confidential material will be acquired. Special care should be taken where the target of the investigation is likely to be involved in handling confidential material. Such applications should only be considered in exceptional and compelling circumstances with full regard to the proportionality issues this raises.
- 5.7.3 The following general principles apply to confidential material acquired under authorisations:
- Those handling material from such operations should be alert to anything that may fall within the definition of confidential material. Where there is doubt as to whether the material is confidential,

advice should be sought from the Head of Governance before further dissemination takes place;

- Confidential material should not be retained or copied unless it is necessary for a specified purpose;
- [Confidential material](#) should be disseminated only where an appropriate officer (having sought advice from the Head of Governance) is satisfied that it is necessary for a specific purpose;
- The retention or dissemination of such information should be accompanied by a clear warning of its confidential nature. It should be safeguarded by taking reasonable steps to ensure that there is no possibility of it becoming available, or its content being known, to any person whose possession of it might prejudice any criminal or civil proceedings related to the information.
- [Confidential material](#) should be destroyed as soon as it is no longer necessary to retain it for a specified purpose.

5.8 Combined authorisations

A single authorisation may combine two or more different authorisations under RIPA. Combined authorisations must not include [intrusive](#) surveillance activity.

5.9 Partnership working

The council's human resources service and fraud investigation services are outsourced to other councils. As the tasking authority, it is Fylde's responsibility to provide the authorisation. This means that where the outsourced human resources or fraud investigation service wishes to carry out [directed surveillance](#) or use a [CHIS](#), authorisation must be obtained from an appropriate [Authorising Officer](#) of Fylde Council. An authorisation sought or granted by an officer of the council providing the outsourced service would not be valid under RIPA and would not give lawful authority for the activity.

6 Handling and disclosure of product

6.1 Control of material

6.1.1 Material acquired through covert surveillance or the use of a CHIS will always be personal information. This means that it must be handled in accordance with [data protection laws](#). Fylde Council will be the data controller for all material

produced in an operation authorised on the application of Fylde Council, regardless of whether it is physically in the possession of Fylde or of a partner organisation. The paragraphs below set out the procedures for handling material.

- 6.1.2 If the procedures allow the material to be shared or given to another person or body, that person or body must agree to comply with the procedures equivalent to those set out below. They must also agree not to share or give any of the material to any other person or body. If the other person or body does not agree, the material should not be shared or given to them unless Fylde Council's data protection officer has agreed in writing.

6.2 Copying

- 6.2.1 Except as mentioned below, you should not make copies of any material unless needed for the purposes of the investigation it forms part of, any other investigation that it is relevant to, or legal proceedings connected with them. Apart from this, you can only make copies for certain statutory purposes. "Making copies" includes not only copying the whole of the material, but also making extracts summaries or records which identify themselves as the product of the surveillance or CHIS.

- 6.2.2 You should not send any material via email or any other method of transmission which is not secure, even within Fylde Council.

6.3 Storage

- 6.3.1 If the material is digital, you must store it in a password protected file, and must not disclose the password to any other person. Under no circumstances should any material be kept in a shared drive or put on a memory stick or other storage device, unless it is required to be disclosed as part of any legal procedure, in which case it must be password protected.
- 6.3.2 If material is held as hard copy, it must be secured and locked in such a way that no person not concerned with the investigation has access to it.

6.4 Destruction

6.4.1 Material must be destroyed once it is no longer needed. Material is deemed to be no longer needed five years after the earliest of the following has happened: (a) any legal proceedings in which the material is part of the evidence, or is unused information, have concluded (including the conclusion of any appeal) and the material is not needed in connection with any other ongoing or contemplated legal proceedings; (b) a decision has been made to not proceed with legal proceedings in connection with the operation for which the material was obtained and the material is not needed in connection with any other ongoing or contemplated legal proceedings; or (c) a review as contemplated by 6.4.2 below has concluded that there is no material possibility of the material being used in any legal proceedings.

6.4.2 Any stored material should be reviewed by the officer in charge of the investigation for which it was obtained no later than one year after it was obtained, and subsequently at intervals of no more than one year to decide whether there is a realistic possibility of it being used in any legal proceedings.

6.4.3 There is nothing in RIPA that prevents material obtained through the proper use of the authorisation procedures from being used in other investigations. However, you should always bear in mind that the purpose of your surveillance is governed by its authorisation. If the purpose changes, you will need to seek a new authorisation.

7 The Use of Covert Human Intelligence Sources

7.1 The [Authorising Officer](#) must consider the continuing safety and welfare of any employee to be used as a [CHIS](#), and the foreseeable consequences to others of the tasks they are asked to carry out. He should assess any risk to the employee **before** authorisation is given.

7.2 The Council's practice is **not** to use an employee acting as a source to infiltrate existing criminal activity, or to be a party to the commission of criminal offences, even where this is within the limits recognised by law.

7.3 The Authorising Officer must believe that the use of an employee as a source

is proportionate to what it seeks to achieve. He should satisfy himself that the likely degree of intrusion into the privacy of those potentially affected is proportionate to what the use of the source seeks to achieve. Accurate and proper records should be kept about the source and tasks undertaken.

- 7.4 Particular care should be taken in circumstances where people would expect a high degree of privacy or where, as a consequence of the authorisation, [confidential material](#) is likely to be obtained.

8 Confidential material

RIPA does not provide any special protection for confidential material. Nevertheless, such material is particularly sensitive, and is subject to additional safeguards under the relevant Home Office [Code](#). In general, any application for an authorisation that is likely to result in the acquisition of confidential material should include an assessment of how likely it is that confidential material will be acquired.

9. Central Register of Authorisations

- 9.1 RIPA requires a central register of all authorisations to be maintained. The Head of Governance or his nominated representative maintains this register.

- 9.2 Whenever an authorisation is granted the [Authorising Officer](#) must arrange for the following details to be forwarded by e-mail to the Head of Governance or nominated representative. Receipt of the e-mail will be acknowledged.

- Whether it is for [Directed Surveillance](#) or [CHIS](#) ;
- Applicants name, job title and directorate;
- Applicant's address and Contact Number;
- Identity of 'Target';
- Authorising Officer and Job Title; (in line with delegation scheme)
- Date of Authorisation;
- Whether the special provisions for urgent authorisation were used and, if so, why;
- Whether the investigation or operation is likely to result in obtaining [confidential material](#); and
- The first date for review.

A copy of the authorisation should be sent either with the notification or to follow as soon as practicable afterwards.

- 9.3. The Head of Governance or person nominated to maintain the register of authorisations will:

- a) Review the authorisation and draw the authorising officer's attention to any issues or problems with it;
 - b) Check that arrangements have been made to seek approval of the authorisation from the Magistrates Court and to forward details of the approval for inclusion on the central record when granted;
 - c) Remind [authorising officers](#) of the expiry of authorisations;
 - d) Check that surveillance does not continue beyond the authorised period;
 - e) At the anniversary of each authorisation, remind authorising officers to consider the destruction of the results of [surveillance](#) operations;
 - f) At the fifth anniversary of each authorisation, remind authorising officers to consider destruction of the forms of authorisation, renewal or cancellation.
- 9.4 It is each director's responsibility to securely retain all authorisations, renewals and cancellations within their directorate. These records are confidential and should be retained for a period of five years from the ending of the authorisation. Once the investigation is closed (bearing in mind court proceedings may be lodged some time after the initial work) the records held by the directorate should be disposed of in an appropriate manner (e.g. shredded).

10 Cancellation of authorisations [moved from elsewhere in the Guide]

- 10.1 [Authorising Officers](#) are reminded of the guidance relating to the retention and destruction of confidential material as described in paragraph [5.2.9.3](#) above.
- 10.2 Authorising Officers are responsible for ensuring that authorisations undergo timely reviews and are cancelled promptly after directed surveillance activity is no longer necessary. It is good practice for a cancellation application to describe the activity undertaken, any material acquired and how that material is to be managed.
- 10.3 Authorising Officers must ensure that the relevant details of each authorisation are sent to the [designated officer](#) for registration as described in [paragraph 8](#) above.
- 6.4 The authorised officer should retain applications for [directed surveillance](#) for

5 years. Where it is believed that the records could be relevant to pending or future criminal proceedings, they should be retained for a suitable further period, commensurate to any subsequent review.

11 Benefits of Obtaining Authorisation under RIPA.

11.1 Authorisation of surveillance and human intelligence sources

RIPA states that

- if authorisation confers entitlement to engage in a certain conduct and
- the conduct is in accordance with the authorisation, **then**
- it shall be “lawful for all purposes”.

However, the corollary is not true – i.e. if you do **not** obtain RIPA authorisation it does not make any conduct unlawful (e.g. use [of intrusive surveillance](#) by local authorities). It just means you cannot take advantage of any of the special RIPA benefits.

11.2 RIPA states that a person shall not be subject to any civil liability in relation to any conduct of his which -

- a) is incidental to any conduct that is lawful by virtue of authorisation; and
- b) is not itself conduct for which an authorisation is capable of being granted under a relevant enactment and might reasonably be expected to have been sought in the case in question

12 Scrutiny and Tribunal

[IPCO](#) regulates conduct carried out under RIPA. The Commissioner provides independent oversight of the use of investigatory powers by intelligence agencies, police forces and other public authorities. This includes authorising [directed surveillance](#) and the use of [covert human intelligence sources](#).

APPENDIX 1.

Definitions from RIPA

- **“Confidential Material”** consists of:
 - a) matters subject to legal privilege;
 - b) confidential personal information; or
 - c) confidential journalistic material.

- **“Matters subject to legal privilege”** includes both oral and written communications between a professional legal adviser and his/her client or any person representing hi/her client, made in connection with the giving of legal advice to the client or in contemplation of legal proceedings and for the purposes of such proceedings, as well as items enclosed with or referred to in such communications. Communications and items held with the intention of furthering a criminal purpose are not matters subject to legal privilege (see Note A below)

- **“Confidential Personal Information”** is information held in confidence concerning an individual (whether living or dead) who can be identified from it, and relating:
 - a) to his/her physical or mental health; or
 - b) to spiritual counselling or other assistance given or to be given, and

which a person has acquired or created in the course of any trade, business, profession or other occupation, or for the purposes of any paid or unpaid office (see Note B below). It includes both oral and written information and also communications as a result of which personal information is acquired or created. Information is held in confidence if:

 - c) it is held subject to an express or implied undertaking to hold it in confidence; or
 - d) it is subject to a restriction on disclosure or an obligation of secrecy contained in existing or future legislation.

- **“Confidential Journalistic Material”** includes material acquired or created for the purposes of journalism and held subject to an

undertaking to hold it in confidence, as well as communications resulting in information being acquired for the purposes of journalism and held subject to such an undertaking.

Note A. *Legally privileged communications will lose their protection if there is evidence, for example, that the professional legal adviser is intending to hold or use them for a criminal purpose; privilege is not lost if a professional legal adviser is properly advising a person who is suspected of having committed a criminal offence. The concept of legal privilege shall apply to the provision of professional legal advice by any agency or organisation.*

Note B. *Confidential personal information might, for example, include consultations between a health professional or a professional counsellor and a patient or client, or information from a patient's medical records.*

APPENDIX 2.

1. RIPA 2000 PART II **APPLICATION** FOR AUTHORITY FOR DIRECTED SURVEILLANCE
2. RIPA 2000 PART II APPLICATION FOR **RENEWAL** OF DIRECTED SURVEILLANCE
3. RIPA 2000 PART II APPLICATION FOR **CANCELLATION** OF DIRECTED SURVEILLANCE
4. RIPA 2000 PART II **REVIEW** OF DIRECTED SURVEILLANCE
5. RIPA 2000 PART II APPLICATION FOR **CHANGE OF CIRCUMSTANCES** OF DIRECTED SURVEILLANCE

APPENDIX 3

Management arrangements for CHIS

[From RIPA, section 29(5)]

- a) that there will at all times be a person holding an office, rank or position with the relevant investigating authority who will have day-to-day responsibility for dealing with the source on behalf of that authority, and for the source's security and welfare;
- (b) that there will at all times be another person holding an office, rank or position with the relevant investigating authority who will have general oversight of the use made of the source;
- (c) that there will at all times be a person holding an office, rank or position with the relevant investigating authority who will have responsibility for maintaining a record of the use made of the source;
- (d) that the records relating to the source that are maintained by the relevant investigating authority will always contain particulars of all such matters (if any) as may be specified for the purposes of this paragraph in regulations made by the Secretary of State; and
- (e) that records maintained by the relevant investigating authority that disclose the identity of the source will not be available to persons except to the extent that there is a need for access to them to be made available to those persons.

The matters specified in paragraph (d) are the following (see The Regulation of Investigatory Powers (Source Records) Regulations 2000)

:

- (a) the identity of the source;
- (b) the identity, where known, used by the source;
- (c) any relevant investigating authority other than the authority maintaining the records;
- (d) the means by which the source is referred to within each relevant investigating authority;
- (e) any other significant information connected with the security and welfare of the source;
- (f) any confirmation made by a person granting or renewing an authorisation for the conduct or use of a source that the information in paragraph (d) has been considered and that any identified risks to the security and welfare of the source have where appropriate been properly explained to and understood by the source;
- (g) the date when, and the circumstances in which, the source was recruited;
- (h) the identities of the persons who, in relation to the source, are discharging or have discharged the functions mentioned in section 29(5)(a) to (c) of the 2000 Act or in any order made by the Secretary of State under section 29(2)(c);
- (i) the periods during which those persons have discharged those responsibilities;

- (j) the tasks given to the source and the demands made of him in relation to his activities as a source;
- (k) all contacts or communications between the source and a person acting on behalf of any relevant investigating authority;
- (l) the information obtained by each relevant investigating authority by the conduct or use of the source;
- (m) any dissemination by that authority of information obtained in that way; and
- (n) in the case of a source who is not an undercover operative, every payment, benefit or reward and every offer of a payment, benefit or reward that is made or provided by or on behalf of any relevant investigating authority in respect of the source's activities for the benefit of that or any other relevant investigating authority.

APPENDIX 4

Covert surveillance of Social Networking Sites (SNS)

[From paragraph 289, OSC Procedures and Guidance 2016]

289 The fact that digital investigation is routine or easy to conduct does not reduce the need for authorisation. Care must be taken to understand how the SNS being used works. Authorising officers must not be tempted to assume that one service provider is the same as another or that the services provided by a single provider are the same.

289.1 Whilst it is the responsibility of an individual to set privacy settings to protect unsolicited access to private information, and even though data may be deemed published and no longer under the control of the author, it is unwise to regard it as 'open source' or publicly available; the author has a reasonable expectation of privacy if access controls are applied. In some cases data may be deemed private communication still in transmission (instant messages for example). Where privacy settings are available but not applied the data may be considered open source and an authorisation is not usually required. Repeat viewing of "open source" sites may constitute directed surveillance on a case by case basis and this should be borne in mind.

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

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

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

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
DEVELOPMENT SERVICES DIRECTORATE	COUNCIL	5 JULY 2021	10
FULLY FUNDED ADDITION TO THE CAPITAL PROGRAMME - FAIRHAVEN KIOSK/ICE CREAM BAR - STANNER BANK			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

The report proposes a new fully funded scheme to the Council's Capital Programme.

The Tourism and Leisure Committee its meeting on 10 June 2021 received a report on a potential development proposal to replace the existing ice cream kiosk at the entrance to Stanner Bank Car Park with a new larger landmark architect designed building with seating and toilets.

The Committee recommended to Council, approval of a fully funded addition to the Council's Capital Programme in the sum of £360,000 to the Fairhaven Kiosk/ Ice Cream Bar project, within the approved Capital Programme (£180,000 for 2021/22 and £180,000 for 2022/23), to be met in full from the Funding Volatility Reserve.

RECOMMENDATION

Council is recommended:

1. To approve a new fully funded scheme 'Fairhaven Kiosk / Ice Cream Bar Project' to the Council's Capital Programme to the sum of £360,000 (£180,000 for 2021/22 and £180,000 for 2022/23), to be met in full from the Funding Volatility Reserve.

SUMMARY OF PREVIOUS DECISIONS

Tourism and Leisure Committee - 10 June 2021

1. To recommend to Council, approval of a fully funded addition to the Councils capital programme in the sum of £360,000 to the Fairhaven Kiosk/ Ice Cream Bar project, within the approved Capital Programme (£180,000 for 2021/22 and £180,000 for 2022/23), to be met in full from the Funding Volatility Reserve;
2. Subject to approval by Council to approve the spend of £15,000 to develop the project to RIBA stage 3.
3. To agree the principal of letting the new facility on a lease on the basis of the terms as set out in the report.
4. Subject to approval by Council that a further report will be presented to committee to seek agreement of the final design, scheme costs and procurement route along with the fuller provisionally agreed heads of terms of a lease for the new facility.

CORPORATE PRIORITIES	
Economy – To create a vibrant and healthy economy	√
Environment – To deliver services customers expect	√
Efficiency – By spending money in the most efficient way	√
Tourism – To create a great place to live and visit	√

REPORT

1. The Tourism and Leisure Committee its meeting on 10 June 2021 received a report on a potential development proposal to replace the existing ice cream kiosk at the entrance to Stanner Bank Car Park with a new larger landmark architect designed building with seating and toilets..
2. Working in partnership with the existing tenants of the adjacent Kiosk, the Council have developed a proposal which seeks to deliver regeneration benefits to the junction of Stanner Bank Car Park and Granny's Bay. The project delivers a new and improved facility to help cater for the additional visitors to the area. Its primary role is to provide economic and tourism benefits with the secondary benefit being a positive financial return to the Council.
3. In summary, the initial design work investigated various potential built forms and architectural directions, culminating in three initial options. These were subsequently refined resulting in two further options. Further details regarding the options and the proposed lease terms/ arrangements and next steps to develop the project to (RIBA Stage 3) were set out in the report of the Tourism and Leisure Committee. The full report can be found [here](#)
4. This proposal will generate rental income of £25,000 per annum following an initial rent-free period of 12 months and future repairs and maintenance will be met from existing revenue budgets or be the subject of future capital bids.
5. The Tourism and Leisure Committee recommended to Council approval of a fully funded addition to the Council's Capital Programme in the sum of £360,000 to the Fairhaven Kiosk/ Ice Cream Bar project, within the approved Capital Programme (£180,000 for 2021/22 and £180,000 for 2022/23), to be met in full from the Funding Volatility Reserve.

IMPLICATIONS	
Finance	<p>The report proposes that council approve a new fully funded scheme 'Fairhaven Kiosk / Ice Cream Bar Project' to the Council's Capital Programme to the sum of £360,000 (£180,000 for 2021/22 and £180,000 for 2022/23), to be met in full from the Funding Volatility Reserve.</p> <p>This proposal will generate rental income of £25,000 per annum following an initial rent-free period of 12 months.</p> <p>Future repairs and maintenance will be met from existing revenue budgets or be the subject of future capital bids.</p> <p>The removal of the existing kiosk will result in the loss of the existing ground rent income of £2,676 p.a.</p>
Legal	The use of the funds for the purposes set out in the report are considered to be in line with the purposes set out in the Section 106 agreement.
Community Safety	None arising from this report

Human Rights and Equalities	None arising from this report
Sustainability and Environmental Impact	None arising from this report
Health & Safety and Risk Management	None arising from this report

LEAD AUTHOR	CONTACT DETAILS	DATE
Darren Bell	darren.bell@fylde.gov.uk 01253 658465	11 June 2021

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
None	NA	NA

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
DEVELOPMENT SERVICES DIRECTORATE	COUNCIL	5 JULY 2021	11

FULLY FUNDED CAPITAL BUDGET INCREASE - ST ANNES SEA WALL SCHEME

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

The Council has been successful in applying for funding to undertake development studies in preparation for the replacement of the hard sea defences at St Annes Seawall.

Work has been undertaken in developing options and consulting on a preferred option which has just been carried out. At a meeting of the Operational Management Committee, held on the 16 June 2021, it was resolved to recommend to Council approval of a fully funded addition to the Council's capital programme. A detailed appraisal and drawdown report is scheduled to go before a special meeting of Operational Management Committee on 14 July 2021.

RECOMMENDATIONS

Council is recommended:

1. To approve a fully funded addition to the St Annes Seawall capital scheme within the Council's capital programme to the sum of £11,820,700 funded by Environment Agency grant of £9,520,700 and the Council's contribution of £2,300,000 towards the total project cost to be met in full from the Funding Volatility Reserve and phased as detailed within the body of this report from 2021/22 – 2024/25.
2. Subject to approval a further report will be presented to the Operational Management Committee to seek agreement of the final design, scheme costs and procurement route.

SUMMARY OF PREVIOUS DECISIONS

Operational Management Committee – 16 June 2021

It was RESOLVED:

1. To recommend to Council approval of a fully funded addition to the St Annes Seawall capital scheme within the Council's capital programme to the sum of £11,820,700 funded by Environment Agency grant of £9,520,700 and the Council's contribution of £2,300,000 towards the total project cost to be met in full from the Funding Volatility Reserve to be phased from 2021/22 – 2024/25.
2. Subject to approval a further report would be presented to the Operational Management Committee to seek agreement of the final design, scheme costs and procurement route.

Operational Management Committee - 16 March 2021

To appoint Councillor John Kirkham as the representative to join the project board, oversee the development of the project and report back to the Operational Management Committee on progress on a regular basis.

Operational Management Committee - 8 September 2020

1. To recommend to Council approval of a new fully funded capital scheme 'St Anne's Sea Wall' within the Council's Capital Programme for 2020/21 in the sum of £300,000, to be met in full, from the Environment Agency flood defence grant in Aid programme;
2. Subject to 1 above, approve the commencement of the proposed development studies as identified in the report in the sum of £300,000, with the works being funded from the Environment Agency flood defence grant in Aid programme;
3. To approve the procurement approach detailed in the report to use the Environment Agencies National Framework to procure the consultants to deliver the development stage of the St Anne's Sea Wall project. To authorise that a contract(s) to be then entered into through the Environment Agency's National Framework for the Development Studies.

Community Focus Scrutiny Committee - 14 October 2010

To endorse the decision of Cabinet to adopt the policies set out in the North West England and North Wales Shoreline Management Plan for the Fylde coastline.

Cabinet- 15 September 2010

Adoption of the Shoreline Management Plan (SMP)

That subject to consideration and comment by the appropriate scrutiny committee to adopt the policies set out in the North West England and North Wales Shoreline Management Plan for the Fylde Coastline.

CORPORATE PRIORITIES

Economy – To create a vibrant and healthy economy	✓
Environment – To deliver services customers expect	✓
Efficiency – By spending money in the most efficient way	✓
Tourism – To create a great place to live and visit	✓

REPORT

PROJECT DESCRIPTION AND BACKGROUND

1. St Annes Seawall is 660m long and was constructed in 1935. It reduces the risk of coastal erosion and flooding to over 400 properties. The seawall surrounds The Island, which is one of three strategic headlands which are critical to maintaining healthy beaches, dunes and reducing the risk of coastal erosion along Fylde Council's frontage.
2. St Annes Seawall is at the end of its design life and is in poor condition; it is cracking and crumbling and is subject to ongoing repairs and maintenance. Voids have previously been identified resulting in settlement of the promenade. The crest level is low and overtopping during storms results in damage to the promenade and flooding of the car park, swimming pool and fitness centre plant room, and flooding up to the thresholds of the cinema, casino, amusement, and restaurant complex.
3. In 2020 the Council were awarded £300k Pipeline acceleration funding to develop the St Anne's Seawall Outline Business Case and supporting appendices to determine the preferred solution for maintaining the integrity of the strategically important Island headland to reduce the risk of coastal erosion and flooding to over 400 properties.
4. The preferred option should work with natural processes, be economically attractive, have a low carbon footprint, provide a sustainable solution and environmental improvement whilst taking account of local landscape and socio-economic issues.

DEVELOPMENT OF THE PROJECT

5. Following development of the Outline business case and 2 stakeholder consultations the project team have been developing options and have [recently consulted on a preferred option](#). This consultation closed on 9 June and the responses are being collated, analysed and considered. The outcome of this consultation will be initially considered by the St Annes Seawall Project Board who will then make a recommendation to Operational Management Committee. Given the progress and momentum of the project a report will be considered at a special meeting of the committee planned for 14 July.
6. The purpose of this report is for the inclusion of the scheme into the Council's capital programme with the detailed appraisal and drawdown report to Operational Management Committee to follow.

FINANCIAL IMPLICATIONS

7. The total initial capital cost is estimated at £11,820,700. The breakdown of this is shown in table 1 below.

Table 1 – Project capital cost estimate

Cost Heading	Total £
Surveys, detailed design, consents, project management, supervision	845,000
Business support/disruption costs	600,000
Construction costs	8,797,400
Risk (defined by the Environment Agency Risk Analysis Tool with adjusted optimism bias)	1,578,300
Total capital cost	£11,820,700

8. The maximum Environment Agency grant available towards this project would be £9,520,700. This would require Fylde Council to make a £2,300,000 contribution in match funding. Within this £2,300,000 contribution is an allowance of £600,000 for public realm amenity enhancements. The Public Realm costs only include to the rear of the proposed sea defences. Additional public realm funding would be required to take forward projects outside of this boundary for example, the Boating Lake. Such projects will be considered by the Island Master Plan when this is developed and adopted. The above costs include allowances for business support and disruption as a result of the works.
9. A breakdown of the capital funding strategy is detailed below: –

Table 2 -Capital funding strategy

Funder	Total £
Environment Agency grant	9,520,700
Fylde Council contribution (2023/2024)	2,300,000
Total capital cost	£11,820,700

10. The phasing of the project costs is estimated as shown below. If the above project delivery timescales are met is estimated that Fylde Council's contribution would be required during 2023/2024.

Table 3 – Phasing of project costs

2021/22	2022/23	2023/24	2024/25	Total
£600,000	£1,870,000	£7,480,700	£1,870,000	£11,820,700

11. The ongoing revenue costs to maintain the new seawall will be met from existing revenue budgets. Due to continued sea level rise it is anticipated that in year 50 the defences will need raising further. This will be the subject of a further bid to the Environment Agency or the appropriate government department/agency at the time.

PROJECT STAGES/NEXT STEPS

12. If progression of this project is approved by Council, the following stages and next steps will be progressed.

13. A bid will be submitted to the Environment Agency formally for their appraisal and consideration.
14. If EA funding is approved the planning phase will commence consisting of technical surveys including topographical, geotechnical, detailed design, ecological and bird surveys and Environmental Impact Assessment. It will include securing all the necessary licenses, consents and approvals including: Marine License, Planning Permission and Environment Agency Flood Risk Activity Permit (FRAP) licence.
15. Ongoing business support and stakeholder engagement is an important element of the project and this will continue throughout the planning and delivery phases.
16. The impact on businesses will be limited during construction by phasing the works to limit the impact during the summer trading season, and keep businesses trading where possible, and also to provide temporary car parking within the site.
17. Procurement and engagement of the contractor will be undertaken during the planning stage and will involve, preparation of works information, preparation of contract documentation and award of contract.
18. The construction phase is currently programmed to commence in January of 2023 and be completed by August 2024.

PROJECT/RISK MANAGEMENT

19. The project is being delivered in the PRINCE2 environment (Projects in Controlled Environments). PRINCE2 has an established project governance structure/specific project roles and responsibilities. The St Annes Seawall Project Board has now been established and meets up on a bi - monthly basis during the feasibility stage and monthly when the project commences on site.
20. A risk log is in continual development to identify and manage the anticipated risks to the project.

IMPLICATIONS	
Finance	The report recommends approval of a fully funded addition to the St Annes Seawall capital scheme within the Council's capital programme to the sum of £11,820,700 funded by Environment Agency grant of £9,520,700 and the Council's contribution of £2,300,000 towards the total project cost to be met in full from the Funding Volatility Reserve and phased as detailed within the body of this report from 2021/22 – 2024/25.
Legal	None arising from this report
Community Safety	None arising from this report
Human Rights and Equalities	None arising from this report
Sustainability and Environmental Impact	None arising from this report
Health & Safety and Risk Management	None arising from this report

LEAD AUTHOR	CONTACT DETAILS	DATE
Paul Walker/Darren Bell	Paul.walker@fylde.gov.uk 01253 658431 darren.bell@fylde.gov.uk 01253 658465	17 June 2021

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
None		

Attached documents – None

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
DEVELOPMENT SERVICES DIRECTORATE	COUNCIL	5 JULY 2021	12
FULLY FUNDED CAPITAL BUDGET INCREASE AND AWARD OF GRANT - KIRKHAM FUTURE HIGH STREET FUND			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

The report seeks Council's approval for the award of the Grant from the Ministry of Housing, Communities and Local Government (MHCLG), under the Future High Street Fund and approval of a fully funded Capital budget increase.

The Planning Committee at its meeting on 23 June 2021 received an updated report on the award of £6.290m grant (formally announced on 19th May) from the MHCLG for the development of the Town Centre Strategy for Kirkham (known as Kirkham Futures). This is in effect an award of 100% grant to assist in the delivery of specific projects contained in the detailed bid. This scheme is complementary to the High Street Heritage Action Zone (HS HAZ) award of £1.791m – total scheme value of £3.271m, which is currently in the approved Capital Programme.

The Planning Committee recommended Council approve a fully funded budget increase for inclusion into the Council's Capital Programme. It should be noted that the first-year allocation of £3,489,071 has been transferred to the Council recently so that the scheme can commence forthwith. The details were given in more depth in the body of the report to the Planning Committee.

The purpose of this report is to seek approval of the funding now received and integrate this into the Capital Programme as well as agreeing to the Year 1 spend.

RECOMMENDATION

Council is recommended:

1. To approve the award of the Grant from the Ministry of Housing, Communities and Local Government (MHCLG), under the Future High Street Fund, of £6.290m in respect of the full funding award for the financial years 2021 – 2024.
2. To approve a fully funded capital budget increase of £6.290m to the Future High Street Fund: Kirkham allocated over the financial years as follows: (2021/22 - £3.489m), (2022/23 - £2.118m) and (2023/24 - £0.683m)

SUMMARY OF PREVIOUS DECISIONS

A series of reports and presentations have been made to the Planning Committee as the HAZ and FHSF bids have emerged.

Planning Committee – 23 June 2021

1. That Council be requested to approve the award of the Grant from the Ministry of Housing, Communities

and Local Government (MHCLG), under the Future High Street Fund, of £6.290m in respect of the full funding award for the financial years 2021 – 2024.

2. To recommend that Council approve a fully funded capital budget increase of £6.290m to the Future High Street Fund: Kirkham allocated over the financial years as follows: (2021/22 - £3.489m), (2022/23 - £2.118m) and (2023/24 - £0.683m)
3. That Committee agree to the principles of developing and implementing the projects and initiatives as outlined in the Scheme Programme including the development of building acquisition, appropriate procedures in respect of the repurposing of the buildings , public realm development proposals and building refurbishment schemes.
4. That full details of the schemes as they develop including building acquisitions and associated matters be reported to Committee (and other appropriate committees) in due course but in a timely manner to ensure that the Implementation Programme as agreed is achieved with MHCLG.

CORPORATE PRIORITIES

Economy – To create a vibrant and healthy economy	✓
Environment – To deliver services customers expect	✓
Efficiency – By spending money in the most efficient way	
Tourism – To create a great place to live and visit	✓

REPORT

1. The Planning Committee its meeting on 23 June 2021 received an updated report on the Kirkham Future High Street Fund which included details of the background to the initiative; the Council’s application; the scope of the scheme and the approved scheme projects/ programme. [Link to Planning Committee 23 June documents.](#)
2. On the 19th May of this year, the Ministry of Housing, Communities and Local Government announced that £576m had been awarded to 57 areas under the Future High Street Fund. The Kirkham bid had been successful as the sole representative in Lancashire. In total, the grant aid amounts to £6.290m. In summary, the Future High Street Fund will operate alongside the previously approved HS HAZ scheme and can now be treated as a total town centre regeneration initiative for practical purposes, although the specific funding allocations and the schemes within the programmes are run separately.
3. In essence, these schemes are aimed at revitalising Kirkham town centre where market failure is already being experienced or can be envisaged as being such in the future. The grant aid is aimed at incentivising development that otherwise is unlikely to happen with consequent further economic decline of the town centre.
4. The projects are required to be phased over the 3 years. It should be noted that the first-year allocation of £3,489,071 has been transferred by MHCLG to the Council recently so that the scheme can commence forthwith.
5. The purpose of this report is to seek approval of the funding now received and integrate this into the Capital Programme as well as agreeing to the Year 1 spend.
6. The Planning Committee recommended that Council approve the award of the Grant from the Ministry of Housing, Communities and Local Government (MHCLG), under the Future High Street Fund, of £6.290m in respect of the full funding award for the financial years 2021 – 2024 and to approve a fully funded capital budget increase of £6.290m to the Future High Street Fund: Kirkham allocated over the financial years as follows: (2021/22 - £3.489m), (2022/23 - £2.118m) and (2023/24 - £0.683m)

IMPLICATIONS	
Finance	The report recommends approval of the award of the Grant from the Ministry of Housing, Communities and Local Government (MHCLG), under the Future High Street Fund, of £6.290m in respect of the full funding award for the financial years 2021 – 2024 and to approve a fully funded capital budget increase of £6.290m to the Future High Street Fund: Kirkham allocated over the financial years as follows: (2021/22 - £3.489m), (2022/23 - £2.118m) and (2023/24 - £0.683m)
Legal	The funding is to be used specifically for the development of the FHSF scheme. The Council has agreed to the processes of monitoring and managing the fund including its correct appropriation. Monitoring and reporting will be required and normal auditing as well as legal mechanisms to ensure the correct procedures are followed commensurate with Central and Local government procurement, policy and financial regulations
Community Safety	Dealt with at detailed stages of the development of individual schemes within the Programme.
Human Rights and Equalities	No specific issues. The scheme is aimed at benefitting all sections of the community.
Sustainability and Environmental Impact	Scheme aimed at sustaining and enhancing the role of Kirkham as an important service centre and market town.
Health & Safety and Risk Management	Dealt with at subsequent stages of the Programme development

LEAD AUTHOR	CONTACT DETAILS	DATE
Paul Walker	paul.walker@fylde.gov.uk 01253 658431	11 June 2021

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
The Future High Street Funding Bid: Report to Planning Committee	14.11. 19	Town Hall, St. Annes
Fully Funded Budget Increase: Report to Planning Committee contains detailed background information	25.11.19	Town Hall, St. Annes

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
DEVELOPMENT SERVICES DIRECTORATE	COUNCIL	5 JULY 2021	13
UNFUNDED REVENUE BUDGET INCREASE – ECONOMIC DEVELOPMENT TEAM RESOURCING			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

The report deals with a request from the Planning Committee for Council to approve an unfunded revenue budget increase to support the resourcing of the Economic Development Team.

In summary, the Planning Committee at its meeting on 23 June 2021 sought Council's approval for an unfunded revenue budget increase of £15,657 during the current financial year (2021/22) and £32,176 in 2022/23 and subsequent years, together with inflationary increases to allow for the appointment of a full time (37 hrs per week) Economic Development and Regeneration Manager and to increase the hours of the Technical Support Officer (Regeneration) to 29.5 hours per week.

Over recent years, the focus of the Council's corporate objectives have evolved to place greater emphasis on the delivery of strategic economic development initiatives. In addition, the government is seeking to improve the quality of new development in terms of urban design and sustainable development. To ensure the Economic Development and Regeneration Team is best placed to address these evolving ambitions, the Planning Committee recommended the proposed expenditure to enable the roles within the team to be reviewed and the structure of the team refreshed.

RECOMMENDATION

Council is recommended:

To approve an unfunded revenue budget increase of £15,657 during the current financial year (2021/22) and £32,176 in 2022/23 and subsequent years, together with inflationary increases in subsequent years to allow for the appointment of a full time (37 hrs per week) Economic Development and Regeneration Manager and to increase the hours of the Technical Support Officer (Regeneration) to 29.5 hours per week.

SUMMARY OF PREVIOUS DECISIONS

Finance and Democracy Committee – 23 November 2020

1. Approve a revenue funded budget increase (to be split between the years 2020/21, 2021/22, 2022/23, and 2023/24) in the total sum of £45,000, to be funded from the Funding Volatility Reserve, in order to provide the required level of resource for the appointment of an Enterprise Zone Project Manager;
2. Approve a revenue funded budget increase (to be split between the years 2020/21, 2021/22, 2022/23 and 2023/24) in the total sum of £246,000, to be funded from the Funding Volatility Reserve, in order to provide the required resource for the appointment of a Town Centres Manager and an Economic Development Officer;

3. Approve a revenue funded budget increase of £5,000 for 2020/21 and £25,000 for 2021/22, to be funded from the Funding Volatility Reserve, in order to provide an enhanced financial resource in respect of the existing St Annes town centre maintenance budget;
4. Authorise the proposed expenditure to fund the recruitment of an Enterprise Zone Project Manager for a temporary period of 3 years;
5. Authorise the proposed expenditure to fund the recruitment of a Town Centres Manager and Economic Development Officer, each for a temporary period of 3 years; and

Planning Committee – 23 June 2021

1. That Council be requested to approve an unfunded revenue budget increase of £15,657 during the current financial year (2021/22) and £32,176 in 2022/23 and subsequent years, together with inflationary increases in subsequent years.
2. That Council be requested to authorise the proposed expenditure to allow the appointment of a full time (37 hrs per week) Economic Development and Regeneration Manager and to increase the hours of the Technical Support Officer (Regeneration) to 29.5 hours per week.

CORPORATE PRIORITIES	
Economy – To create a vibrant and healthy economy	✓
Environment – To deliver services customers expect	
Efficiency – By spending money in the most efficient way	✓
Tourism – To create a great place to live and visit	✓

REPORT

1. The Planning Committee at its meeting on 23 June 2021 considered matters associated with the resourcing of the Economic Development and Regeneration Team.
2. Over recent years the Council, through its Corporate Plan, has placed increased emphasis on the economic development of the borough. Over the coming years, the Economic Development and Regeneration Team will be responsible for delivering the Heritage Action Zone and Future High Street Fund programmes in Kirkham, delivering major improvement works in the Lytham and St Annes Town Centres in addition to other initiatives across the borough including the promotion of the two Enterprise Zones.
3. In addition, the Planning for the Future White Paper issued in August 2020 sets out the UK Government's proposals to improve the design and sustainability of new developments. This sits alongside the Government's existing 25-year action plan to improve the environment which includes a commitment to significantly boost tree planting and protect the natural environment.
4. The recovery of the local economy from the impacts of the pandemic is also a priority for the Council and the work of the Economic Development and Regeneration Team is key to developing and delivering initiatives to assist in this.
5. A number of recent appointments and successful bids for Government funding have seen the size of the Economic Development and Regeneration Team and the projects they will be delivering over the next few years grow. It is already apparent that additional resources will be required within the team to deliver the objectives set out in the Corporate Plan and the governments emerging design and natural environment agenda.
6. The current Regeneration Manager will be retiring be towards the end of September and it is considered timely to undertake a review of the structure of the Economic Development and Regeneration Team.

7. The proposed structure of the Economic Development and Regeneration Team and the associated financial implications were set out in the report to the Planning Committee. A copy the full report is available at [Planning Committee Report](#).
8. The staffing proposals would require additional resource with the hours of the service manager increasing from 29.5 to 37 per week at the same grade and the technical support officer increasing from 18.5 to 29.5 hrs per week also at the same grade.
9. The report seeks approval of an unfunded revenue funded budget increase of £15,657 for the current financial year (2021/22) and £32,176 in 2022/23 and subsequent years, together with inflationary increases in subsequent years to allow for the appointment of a full time (37 hrs per week) Economic Development and Regeneration Manager and to increase the hours of the Technical Support Officer (Regeneration) to 29.5 hours per week. The Medium-Term Financial Strategy will be updated to reflect these additional costs.
10. It is considered that the revised staffing structure set out in the appendix will allow the Economic Development and Regeneration Team to deliver both the council's and the government's emerging economic development and sustainable development objectives.

IMPLICATIONS	
Finance	The report seeks approval of an unfunded revenue funded budget increase of £15,657 for the current financial year (2021/22) and £32,176 in 2022/23 and subsequent years, together with inflationary increases in subsequent years. The next update of the council's Medium-Term Financial Strategy will be updated to reflect these additional costs.
Legal	There are no implications
Community Safety	There are no implications
Human Rights and Equalities	There are no implications
Sustainability and Environmental Impact	There are no implications
Health & Safety and Risk Management	There are no implications

LEAD AUTHOR	CONTACT DETAILS	DATE
Mark Evans	mark.evans@fylde.gov.uk & Tel 01253 658460	June 2021

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Planning permission 12/0465	1 October 2012	www.fylde.gov.uk
Committee Report	23 June 2021	Planning Committee Report

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
DEVELOPMENT SERVICES DIRECTORATE	COUNCIL	5 JULY 2021	14
FULLY FUNDED REVENUE BUDGET INCREASE - EDUCATION CONTRIBUTION RELATING TO SEC. 106 AGREEMENT FOR DEVELOPMENT AT THE FORMER GOVERNMENT OFFICES SITE, HEYHOUSES LANE, LYTHAM ST ANNES			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

At the Planning Committee on 19 May 2021, consideration was given to the release/transfer of Section 106 funds that had been secured in the granting of planning permission for the redevelopment of the former EDS site, Heyhouses Lane, St Annes to be undertaken.

The Committee recommended that Council approve a fully funded revenue budget increase of £393,089 in 2021/22 to be met in full by Section 106 monies held by the Council for this purpose and to authorise the sum of £278,792 be paid to Lancashire County Council and £114,297 be paid direct to Clifton Primary School for the provision of additional school places at Clifton Primary School in accordance with the terms of the agreement.

RECOMMENDATION

Council is recommended:

To approve a fully funded revenue budget increase of £393,089 fully funded from the S106 contribution (application 12/0465) and to authorise the sum of £278,792 be paid to Lancashire County Council and £114,297 be paid direct to Clifton Primary School for the provision of additional school places at Clifton Primary School in accordance with the terms of the agreement.

SUMMARY OF PREVIOUS DECISIONS

Planning Committee - 19 May 2021

To recommend to Council approval of a fully funded revenue budget increase of £393,089 fully funded from the S106 contribution (application 12/0465) and to authorise the sum of £278,792 be paid to Lancashire County Council and £114,297 be paid direct to Clifton Primary School for the provision of additional school places at Clifton Primary School in accordance with the terms of the agreement, subject to the approval of the fully funded budget increase by Council.

CORPORATE PRIORITIES	
Economy – To create a vibrant and healthy economy	
Environment – To deliver services customers expect	√
Efficiency – By spending money in the most efficient way	√
Tourism – To create a great place to live and visit	√

REPORT

1. The Planning Committee at its meeting on 19 May 2021 was advised that permission was granted for the development of 250 dwellings, a food superstore, and a restaurant/public house on this previously developed site in October 2012. The planning permission was subject to a Section 106 agreement that secured a range of contributions to ensure that local infrastructure was able to meet the needs of the development. The education contribution was required *“to be used towards the funding of additional primary school place provision to serve the needs of the residents of the Development”*.
2. For information purposes, development of 2 of the 3 phases has now been completed and the developer has paid Fylde Council the agreed contributions in 2 amounts, £325,760 in phase 1 and a further £215,137.71 for phase 2. Since the assessment of the impacts of the development on school provision was originally carried out by LCC, there have been changes in demand for primary school resulting a general surplus of places. There has, however, been an increase in demand at Clifton Primary School which LCC have needed to address and so they have requested the funds are now paid over to them to address this issue. The education authority have confirmed that £393,089 is required to meet the costs of providing 25 additional places, on a temporary basis, to address an increase in the number of children admitted at reception year at Clifton Primary School in September 2015 when the intake rose from 35 to 60 pupils. Demand for spaces returned to its previous level in subsequent intake years, but the additional capacity will be required as the children move through their primary education. Accordingly, accommodation for the additional 25 places will only be needed for a period of 7 years and takes the form of an extension at the school to provide an additional class base. It is considered that the provision of these temporary arrangements will be in accordance with the requirements of the agreement.
3. As some of the cost of providing the additional places has been met by the school itself, it is proposed to pay part of the monies to LCC and part to Clifton Primary School. This money cannot be used other than to ensure education provision in accordance with the terms of the S106 Agreement. Consequently, Fylde Council will continue to ensure that the terms of any S106 reflect the requirements for appropriate education provision in the borough.
4. In accordance with the above, the Planning Committee recommended to Council approval of a fully funded revenue budget increase of £393,089 to be met in full by Section 106 monies held by the Council for this purpose and to authorise the sum of £278,792 be paid to Lancashire County Council and £114,297 be paid direct to Clifton Primary School for the provision of additional school places at Clifton Primary School in accordance with the terms of the agreement.

IMPLICATIONS	
Finance	The report recommends approval of a fully funded revenue budget increase of £393,089 in 2021/22 to be met in full by Section 106 monies held by the Council for this purpose and to authorise the sum of £278,792 be paid to Lancashire County Council and £114,297 be paid direct to Clifton Primary School for the provision of additional school places at Clifton Primary School in accordance with the terms of the agreement.

Legal	The use of the funds for the purposes set out in the report are considered to be in line with the purposes set out in the Section 106 agreement.
Community Safety	There are no implications
Human Rights and Equalities	There are no implications
Sustainability and Environmental Impact	There are no implications
Health & Safety and Risk Management	There are no implications

LEAD AUTHOR	CONTACT DETAILS	DATE
Karen Hodgkiss	karenh@fylde.gov.uk & Tel 01253 658515	7th April 2021

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Planning permission 12/0465	1 October 2012	www.fylde.gov.uk

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
DEVELOPMENT SERVICES DIRECTORATE	COUNCIL	5 JULY 2021	15

PURCHASE OF LAND ADJACENT TO SQUIRES GATE STATION – CPO REQUEST

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

A report is being heard at the Finance and Democracy Committee, to be held on 28th June 2021, to obtain approval in principle for a Compulsory Purchase Order (CPO) for a parcel of land adjacent to Squires Gate Station to enable an accessible route at Squires Gate Station to be constructed to the platform. This parcel of land is a key piece of infrastructure in allowing access to the station for all persons under the Equality Act.

The land is currently unregistered, and the Council have sought confirmation from all landowners of the surrounding area, one of whom was forthcoming in accepting ownership but has been unable to substantiate their claim or engage with the Council to register the land.

This report and the proposed CPO demonstrate this Council's intention to deliver this scheme.

RECOMMENDATIONS

Council is recommended:

1. To approve, in principle, to the making of a Compulsory Purchase Order for land adjacent to Squires Gate Station to enable an accessible route to the station platform to be created.
2. To note that a report was presented to Finance & Democracy Committee (28/06/21) to request Delegation of authority to the Director of Development Services to acquire the land by purchase outside any compulsory purchase process provided that the purchase price and other terms are, in his opinion, broadly consistent with the aspirations and expectations of the Council.
3. To note that a report was presented to Finance & Democracy Committee (28/06/21) to request a funded capital budget increase of £1,000 in 2021/22 from the Capital Investment Reserve for additional legal and surveying fees associated with the CPO process subject to Council approval of the Compulsory Purchase Order.

SUMMARY OF PREVIOUS DECISIONS

At the Finance and Democracy Meeting of 24th June 2019 it was resolved:

1. That officers approach Network Rail with a request that Network Rail fund, or contribute to funding of, the purchase of the land and the associated legal fees in the first instance;
2. If 1. above is unsuccessful, to approve the purchase of approximately 35.6 square metres of land adjacent to Squires Gate Station for the sum of £3,000 plus payment of the vendor's legal costs up to £2,400 i.e. to a total cost of no more than £5,400, in the absence of recouping any of those costs;

3. To approve an addition to the Council's Capital Programme for 2019/20 in the sum of £5,400 to be met from the Capital Investment Reserve for the purchase of the land adjacent to Squires Gate Station as described above;
4. To approve expenditure in the maximum sum of £5,400 for the purchase of the land adjacent to Squires Gate Station as described above; and
5. To approve the granting of a long ground lease of this land, once purchased, to Network Rail to include the transference of responsibility for management and maintenance of the land.

CORPORATE PRIORITIES	
Economy – To create a vibrant and healthy economy	✓
Environment – To deliver services customers expect	✓
Efficiency – By spending money in the most efficient way	✓
Tourism – To create a great place to live and visit	✓

REPORT

BACKGROUND

1. The delivery of a step-free accessible route to Squires Gate Station platform has been a long-term desire of the Council and the South Fylde Line Community Rail Partnership.
2. As part of the development of the former Pontins site by Persimmon Homes, a footpath at the end of New Road has been installed behind Lindsey Court garages towards Squires Gate Station platform up to the end of the land which Persimmon owns. There remains a small patch of land between the land owned by Persimmon and the station platform. For an accessible route to be created this patch of land of approximately 35.6m², as shown in Appendix 1, needs to be acquired.
3. The land is unregistered. The Council made enquiries in 2018 and 2019 and identified a person who claims ownership of the land. In 2019 the council agreed¹ to purchase the land for a purchase price of £3,000 and fees of up to £2,000 plus VAT, provided that the claimed owner first register their ownership with the Land Registry.
4. Following this agreement, the assumed owner, through a solicitor, advised that they were only willing to proceed if the Council guaranteed that costs for registering the land would be covered even if the registration process failed. The Council were not willing to commit public money to the process with the risk that it did not end up acquiring the land.
5. Subsequently, the South Fylde Line Community Rail Partnership offered to act as guarantor to the process. This ensured that, if the registration attempt failed or, if it succeeded but the owner failed to sell the land to the Council, that they would cover the legal costs incurred. This was agreed in January 2020.
6. The solicitors of the assumed owner were advised that their fees would be guaranteed in January 2020. The solicitors advised they had received formal instructions from the assumed owner to proceed with registering possessory title for the land.
7. Fylde officers followed this up over the next few months. In April 2020 the Council were advised that a Statutory Declaration had to be signed in front of a solicitor which, as the first Covid lockdown had come into effect, was not possible at that time. Following easing of lockdown restrictions this was followed up in June and July 2020 without response. In August 2020 Fylde officers were advised by the assumed owner's solicitors

¹ The capital cost of this was agreed to be met by Fylde Council at the Finance and Democracy Committee meeting of 24th June 2019. The agreement with the assumed owner was made on 16th August 2019.

that they had received no further instructions to progress. Fylde Officers continued to follow-up monthly with either no response or to be advised that no further instruction had been given.

8. In February 2021, with no progress having been made and the assumed owner's solicitors advising that they had no instruction to pursue further, Fylde's legal team advised the agent that if the registration was not progressed imminently then authority would be sought to start the process to obtain a Compulsory Purchase Order ('CPO') for the land. In March 2021 the solicitors advised that they had received no response from the assumed owner.
9. The power to obtain the land compulsorily is in section 226(1)(b) of the Town and Country Planning Act 1990, which covers land "*which is required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situate*". Officers consider that enabling access to the rail network at Squires Gate station for wheelchair users and others for whom the present stepped access would present difficulties is a purpose which falls within the power.

PROPOSED ACTION

10. The CPO procedure involves up to four stages: making the order, confirming the order, implementing the order and settling compensation.
11. The order can only be made after a number of preparatory steps, including making all practicable enquiries to identify reputed owners of interests in the land and preparation of a CPO scheme, which is the formal document intended to justify the acquisition and the use of compulsory powers.
12. An order cannot be implemented (which means acquiring the land) until it has been confirmed by the Secretary of State. If there is an objection to an order (for example, by the landowner), the Secretary of State will normally only confirm it after a public inquiry to consider the objection. The council needs to be in a position at an inquiry to support its decision to make a CPO.
13. Best practice is for the council to resolve in principle to use compulsory purchase powers, following which officers would prepare the compulsory purchase documentation in detail (including the draft order and scheme). Once all of the CPO documentation has been prepared, a further report would be prepared seeking a second resolution to formally make the CPO. The CPO would then made as soon as practicable after the second resolution.
14. At all stages, the council needs to be prepared to agree to acquire the land by a non-compulsory sale, rather than using its CPO powers, which should always be seen as a last resort. The second recommendation would provide delegated authority to purchase the land without using its CPO powers.

FINANCIAL IMPLICATIONS

15. Within the Capital programme, £3,000 has been allocated for purchase of the land and £2,000 plus VAT for legal fees. A further £1,000 is expected to be required to cover additional legal and surveying fees as a result of the CPO process. This has been recommended to the Finance and Democracy Committee for a decision on 28th June 2021.

COMPENSATION

16. Where an authority acquires the land by the use of CPO powers, the compensation to be paid to the owners of interests in the land is determined either by agreement or, if no value is agreed, by a tribunal. The compensation is based on the open market value of the land taken, any loss caused by losing possession of the land and compensation for damage to any retained land of the affected party. While it is not possible to be certain of the compensation that would be awarded by a tribunal, professional valuation evidence should provide a strong indication of the likely range. It is expected that this amount will be within the £3,000 already allocated for the purchase.

IMPLICATIONS	
Finance	No financial implications identified within this report.
Legal	Subject to Finance and Democracy Committee recommendation on 28 th June 2021, Full Council is requested to approve in principle to the making of a Compulsory Purchase Order for land adjacent to Squires Gate Station to enable an accessible route to the station platform to be created.
Community Safety	None
Human Rights and Equalities	The provision of an accessible access will enable those with restricted mobility to use Squires Gate Station.
Sustainability and Environmental Impact	None
Health & Safety and Risk Management	None

LEAD AUTHOR	CONTACT DETAILS	DATE
Andrew Loynd	andrew.loynd@fylde.gov.uk , 01253 658527	14 June 2021

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
None		

Attached documents

Appendix 1 – Plan of land adjacent to Squires Gate Station

