

Individual Cabinet Member Delegated Decision

**Cabinet Member for Housing, Corporate Services, Arts, Heritage and Tourism
Councillor Richard Clewer**

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REFERENCE: CSHHAT-02-18

Report on proposed amendments to the council's 'RIPA' policies

Purpose of Report

On the 17 January 2012 the council, as a body that may undertake surveillance activities under the Regulation of Investigatory Powers Act 2000 (RIPA), adopted the following policies:

- Wiltshire Council Corporate Policy and Procedures Document on Directed Surveillance (The Regulation of Investigatory Powers Act 2000 (RIPA))
- Wiltshire Council Corporate Policy and Procedures Document on Accessing Communications Data (The Regulation of Investigatory Powers Act 2000 (RIPA))
- Wiltshire Council Corporate Policy and Procedures Document on Covert Human Intelligence Sources (The Regulation of Investigatory Powers Act 2000 (RIPA))

As a result of the last inspection by the Office of Surveillance Commissioners, updated Codes of Practice put out by the Home Office, and Office of Surveillance Commissioners procedures and guidance published in July 2016, the Legal Services team has drafted amendments to the policies to reflect various changes identified within the updated documents. The purpose of this report is to highlight the proposed amendments and seek their approval by cabinet member delegated decision.

The existing policies are robust and the proposed amendments will, in practice, have little impact on the way in which officers exercise their powers under the regime. As such, it is considered appropriate to bring this decision before the responsible cabinet member rather than cabinet itself.

The responsible member has power to decide the matter following a cabinet decision to delegate oversight of the policies. This decision was recorded at minute 8 of the cabinet meeting held on 17 January 2012.

In summary, the changes are as set out below.

Changes common to both the Directed Surveillance and Covert Human Intelligence Sources policies:

- Change to make reference to the new 2018 codes of guidance;
- Change in legal services officer relating to RIPA coordinating Officer;

- Addition within the oversight summary (section 2 of the policy) to highlight where within the policy the judicial process is found (section 10);
- Confirmation that the Council is remaining with quarterly reporting to members (despite code of guidance having been changed to allow for regularly). It was felt that maintaining quarterly reporting will ensure that oversight is maintained on a regular but not too onerous basis;
- Definition of Property Interference and Incidental Property Interference (DS only);
- Clarification of cancellation requirements;
- Amendment of Collateral Intrusion explanation to include R v Sutherland reference (DS only);
- Clarification of records management processes;
- Inclusion of and explanation of judicial approval process (section 10) and flowchart (Appendix 1D);
- Removal from appendix 3 of Council Officer as alternative SPOC leaving the SPOC for Council as the National Anti-Fraud Network (NAFN);
- Amendments to Authorised Persons and Designated persons to account for staff changes;
- Amendment of authorising officers for juvenile or vulnerable CHIS to Corporate Directors and explanation regarding this;
- Inclusion of hyperlink to Home Office Guidance on Judicial Approval

Changes specific to the Covert Human Intelligence Sources policy:

- Inclusion of legal advice caveat on policy front sheet;
- Note highlighting need for authorisation if relationship exists between subject and CHIS – Section 4.
- Note highlighting need to continue to consider welfare of CHIS after cancellation of authorisation – Section 6;
- Note that CHIS profile to be stored separately from other CHIS records;
- Exclusion of section 11 regarding working with/through other agencies;
- Exclusion of Appendix 3 regarding obtaining communications data as not relevant to CHIS
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Changes specific to the communications data policy:

- Legal Services are still working on changes to Communications data policy and will table those changes under separate report.

Consultation

n/a

Options Considered

n/a

Reason for Decision

The amendments are necessary to bring the council's policies in line with current legislation.

DECISION MADE

I approve the proposed changes to the council's 'RIPA' policy as detailed in this report.

This decision was published on 5 December 2018 and will come into force on 13 December 2018

The following supporting documents are attached:

- Appendix 1 - Draft amended Wiltshire Council Corporate Policy and Procedures Document on Directed Surveillance (The Regulation of Investigatory Powers Act 2000 (RIPA))
- Appendix 2 - Draft amended Wiltshire Council Corporate Policy and Procedures Document on Covert Human Intelligence Sources (The Regulation of Investigatory Powers Act 2000 (RIPA))

The following supporting documents are available from the officer named above:

- Minutes of the cabinet meeting of 17 January 2012
- Home Office Codes of Practice (August 2018) and Office of Surveillance Commissioners procedure and guidance (July 2016).
- Regulation of Investigatory Powers Act 2000

Date4 December 2018.....signed.....

**Cllr Richard Clewer
Cabinet Member for Housing, Corporate Services, Arts, Heritage and Tourism**