

## **Wiltshire Council**

### **Individual Cabinet Member Decision**

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**Subject: Appointment of Authorising Officers under the Regulation of Investigatory Powers Act 2000 (RIPA)**

**Cabinet Member: Councillor Ashley O'Neill**  
**Cabinet Member for Governance, IT, Broadband, Digital, Licensing, Staffing, Communities and Area Boards**

**Key Decision: No**

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#### **Executive Summary**

The Regulation of Investigatory Powers Act 2000 (RIPA), which came into force on 25 September 2000, was enacted in order to regulate the use of a range of investigative powers by a variety of public authorities. It gives a statutory framework for the authorisation and conduct of certain types of covert surveillance operation. Its aim is to provide a balance between preserving people's right to privacy and enabling enforcement agencies to gather evidence for effective enforcement action.

It is consistent with the Human Rights Act 1998 and creates a system of safeguards, reflecting the requirements of Article 8 of the European Convention on Human Rights (right to respect for a person's private and family life, home and correspondence). Compliance with RIPA means that any conduct authorised under it is "lawful for all purposes". This important protection derives from section 27(1) of RIPA, which gives the authorised person an entitlement to engage in the conduct which has been authorised. Compliance with RIPA will assist the Council in any challenges to the way in which evidence has been gathered, and its subsequent use and will enable the Council to demonstrate that it has acted lawfully.

Within the process adopted by the Council there are designated Authorised Officers (AO's) whose role is to consider all applications they receive in accordance with Council policy. An authorisation can only be granted where the surveillance activity is necessary for the detection or prevention of crime or for preventing disorder and the AO considers that covert surveillance is a proportionate way for the Council to obtain the desired information.

Under our policy there are usually 4 designated AO's to ensure that there are sufficient AO's available at any given time. Due to retirements or resignations there is currently only one designated AO remaining within the Council and it is therefore appropriate for further Officers to be designated.

Under the Council's Policies power to make such appointments has been delegated to the Cabinet Member for Governance and staffing as the successor to the Cabinet Member for Resources.

**Proposal(s)**

To designate as Authorising Officers the following staff: -

- John Carter – Head of Public Protection
- Sarah Valdus – Assistant Director Environment
- Martin Nicholls – Head of Executive Office
- Cate Mullen – Head of SEND and Inclusion

For inclusion in Appendix 2 of the Council's Policies for Covert Human Intelligence Sources and Directed surveillance.

**Reason for Proposal(s)**

To ensure that there is an appropriate number of AO's within the Council to provide sufficient cover.

Frank Cain  
Designated Senior Responsible Officer for RIPA  
**Chief Executive Officer**

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**Key Decision: No**

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#### **Purpose of Report**

1. To seek designation of named senior officers of the Council as Authorising Officers under the Council's Policies for Covert Human Intelligence Sources and Directed surveillance

#### **Relevance to the Council's Business Plan**

2. Enforcement is one of the methods available to local authorities to ensure that regulatory requirements necessary in any community are maintained to allow people to live full healthy and enriched lives and their community remain beautiful places to live.
3. The RIPA procedure adopted by the Council ensures that an appropriate balance is reached between preserving people's right to privacy and enabling enforcement teams to gather evidence for effective enforcement action.

#### **Background**

4. The Regulation of Investigatory Powers Act 2000 (RIPA), came into force on 25 September 2000, was enacted in order to regulate the use of a range of investigative powers by a variety of public authorities. It gives a statutory framework for the authorisation and conduct of certain types of covert surveillance operation. Its aim is to provide a balance between preserving people's right to privacy and enabling enforcement agencies to gather evidence for effective enforcement action.
5. The Council has adopted policies and procedures for obtaining such authorisations. There are two adopted policies; a policy that relates to use of Covert Human Intelligence sources and a policy which relates to Directed surveillance. Within both policies designated Authorities Officers are identified in Appendix 2.
6. Due to resignations and retirements only one of the currently designated Authorising Officers under the Council's policies remains in the Council's employment.

#### **Main Considerations for the Council**

7. Whilst use of covert investigative means of gathering evidence will always be a last resort and therefore in any given year there will be a limited number of applications for authorisation (on average 3) it is important that the Council has sufficient designated Officers to provide coverage throughout the year to allow for leave, sickness and competing corporate priorities.
8. The Office of Surveillance Commissioners who provide an independent audit of RIPA procedures nationally have recommended for this Council to have four designated Authorising Officers to provide such coverage.

### **Safeguarding Implications**

9. There are no direct safeguarding implications

### **Public Health Implications**

10. There are no direct public health implications

### **Procurement Implications**

11. As the decision relates to internal appointment of Authorising Officers there are no procurement implications.

### **Equalities Impact of the Proposal**

12. There are no direct equality implications.

### **Environmental and Climate Change Considerations**

13. There are no direct Environmental and Climate Change implications.

### **Workforce Implications**

14. There are no direct workforce implications. The appointment is on a voluntary basis and due to the small number of applications per year this can be absorbed within the appointees' normal course of business.

### **Risks that may arise if the proposed decision and related work is not taken**

15. There may not be an Authorised Officer available to deal with an application thereby interfering with the Council's ability to gather necessary evidence.

### **Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks**

16. No identifiable risks in respect of the appointment.

### **Financial Implications**

17. As the appointment is on a voluntary basis and due to the small number of applications per year this can be absorbed within the appointees' normal course of business. There are therefore no financial implications in respect of this proposal.

## **Legal Implications**

18. These are set out in the body of the report.

## **Conclusions**

19. To ensure that there is an appropriate number of Authorising Officers within the Council to provide sufficient cover under the Council's RIPA policies it is appropriate to designate as Authorising Officers the following staff: -

- John Carter – Head of Public Protection
- Sarah Valdus – Assistant Director Environment
- Martin Nicholls – Head of Executive Office
- Cate Mullen – Head of SEND and Inclusion

For inclusion in Appendix 2 of the Council's Policies for Covert Human Intelligence Sources and Directed surveillance.

20. Under the Council's Policies power to make such appointments has been delegated to the Cabinet Member for Governance and Staffing as the successor to the Cabinet Member for Resources.

## **Lead Director Perry Holmes**

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Date of report 10 August 2022

**Appendices – Nil**

## **Background Papers**

the Council's Policies for Covert Human Intelligence Sources and Directed surveillance.