

The Arc
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Clowne
S43 4JY

To: Chair & Members of the
Standards Committee

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Thursday 22nd August 2024

Dear Councillor

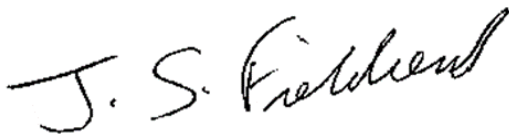
STANDARDS COMMITTEE

You are hereby summoned to attend a meeting of the Standards Committee of the Bolsover District Council to be held in the Council Chamber, The Arc, Clowne on Monday, 2nd September, 2024 at 14:00 hours.

Register of Members' Interests - Members are reminded that a Member must within 28 days of becoming aware of any changes to their Disclosable Pecuniary Interests provide written notification to the Authority's Monitoring Officer.

You will find the contents of the agenda itemised on page 3.

Yours faithfully



Solicitor to the Council & Monitoring Officer

Equalities Statement

Bolsover District Council is committed to equalities as an employer and when delivering the services it provides to all sections of the community.

The Council believes that no person should be treated unfairly and is committed to eliminating all forms of discrimination, advancing equality and fostering good relations between all groups in society.

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- Call with [Relay UK](#) - a free phone service provided by BT for anyone who has difficulty hearing or speaking. It's a way to have a real-time conversation with us by text.
- **Visiting** one of our [offices](#) at Clowne, Bolsover, Shirebrook and South Normanton

**STANDARDS COMMITTEE
AGENDA**

***Monday, 2nd September, 2024 at 14:00 hours taking place in the Council Chamber,
The Arc, Clowne***

Item No.		Page No.(s)
1.	Apologies For Absence	
2.	Urgent Items of Business To note any urgent items of business which the Chairman has consented to being considered under the provisions of Section 100(B) 4(b) of the Local Government Act 1972.	
3.	Declarations of Interest Members should declare the existence and nature of any Disclosable Pecuniary Interest and Non Statutory Interest as defined by the Members' Code of Conduct in respect of: a) any business on the agenda b) any urgent additional items to be considered c) any matters arising out of those items and if appropriate, withdraw from the meeting at the relevant time.	
4.	Minutes To consider the minutes of the last meeting held on 15 th April 2024.	4 - 6
5.	RIPA Policy	7 - 51
6.	Delegation of the decision to grant dispensations	52 - 75
7.	Complaints Update Verbal update on statistics of complaints received by the Council against District and Parish Councillors	76
8.	Annual Letter from the Local Government & Social Care Ombudsman 2023/24	77 - 85
9.	Work Programme 2024/2025 To consider the Standards Committee Work Programme for the remainder of the 2024/25 Municipal Year.	86

STANDARDS COMMITTEE

Minutes of a meeting of the Standards Committee of the Bolsover District Council held in the Council Chamber, The Arc, Clowne on Monday 15th April 2024 at 14:00 hours.

PRESENT:-

Members:-

R. Jaffray in the Chair

Councillors Clive Moesby (Vice-Chair), Anne Clarke, Louise Fox, Justin Gilbody (for items STA45-23/24 to STA47-23/24 only), Catherine Tite and Jane Yates.

Officers:- Jim Fieldsend (Director of Governance and Legal Services & Monitoring Officer) and Amy Bryan (Governance and Civic Manager).

STA39-23/24 APOLOGIES FOR ABSENCE

There were no apologies for absence received.

STA40-23/24 URGENT ITEMS OF BUSINESS

There was no urgent business to be considered at the meeting.

STA41-23/24 DECLARATIONS OF INTEREST

Members were requested to declare the existence and nature of any disclosable pecuniary interests and/or other interests, not already on their register of interests, in any item on the agenda and withdraw from the meeting at the appropriate time.

There were no declarations made at the meeting.

STA42-23/24 MINUTES

Moved by Councillor Clive Moesby and seconded by Councillor Jane Yates

RESOLVED that the minutes of a meeting of the Standards Committee held on 29th January 2024 be approved as a true and correct record.

STA43-23/24 PROPOSED AMENDMENT TO THE SCHEME OF DELEGATION FOR OFFICERS

The Director of Governance and Legal Services & Monitoring Officer presented a report which proposed an amendment to the Officer Delegation Scheme to enable the Strategic Director of Services to purchase vehicles above the Key Decision threshold.

The report explained that the Council sets the budget for capital spend, including an amount for replacement vehicles. The purchase of individual vehicles was then approved by either officers under delegated powers or Executive if the value of the vehicles to be

STANDARDS COMMITTEE

purchased exceeded the Key Decision threshold for capital spend, i.e. £150,000.

It was therefore proposed that the Officer Delegation Scheme be amended to enable the Strategic Director of Services to agree to the purchase of all vehicles. This power would only be used where the Council's Contract Procedure Rules had been complied with. The proposed wording of the delegation to the Strategic Director of Services was 'To agree to the purchase of all vehicles subject to the purchase being in accordance with the approved capital budget and the Contract Procurement Rules.'

Moved by Councillor Jane Yates and seconded by Councillor Catherine Tite

RESOLVED that the proposed amendment to the Constitution in relation to the Officer Delegation Scheme, as set out in the report, be recommended to Council for approval.

STA44-23/24 MEMBER TRAINING ATTENDANCE 2023/24

The Director of Governance and Legal Services & Monitoring Officer presented a report which provided the Committee with information relating to Councillor attendance at training events.

The report explained that part of the terms of reference of the Committee was to oversee Member Training, including the attendance of Members at courses. A summary of Councillor attendance at training sessions during 2023/24 was attached to the report at Appendix 1.

The Committee expressed disappointment at some of the low levels of attendance. The Director of Governance and Legal Services & Monitoring Officer stated that more sessions, including catch up sessions for some of the training subjects that were mandatory, were being organised.

Moved by Councillor Catherine Tite and seconded by Councillor Jane Yates

RESOLVED that the information and statistics for Member attendance at training so far during 2023/24, as attached at Appendix 1 to the report, be noted.

(Councillor Gilbody entered the meeting).

STA45-23/24 ANNUAL REPORT OF THE STANDARDS COMMITTEE 2023/24

The Committee considered the draft Annual Report on the work it had undertaken during the Municipal Year 2023/24. It was intended that the report be presented to Annual Council on 22nd May 2024.

The Director of Governance and Legal Services & Monitoring Officer stated that further information would be added to Section 9 – Member Training Attendance following the discussion earlier in the meeting.

Moved by Councillor Catherine Tite and seconded by Councillor Louise Fox

RESOLVED that the draft Annual Report on the work undertaken during the Municipal Year 2023/24, be approved.

STANDARDS COMMITTEE

STA46-23/24 RIPA UPDATE

The Director of Governance and Legal Services & Monitoring Officer provided an update on the Council's use of the Regulation of Investigatory Powers Act 2000 (RIPA), which governed the use of covert surveillance by public bodies. It was confirmed that no applications had been made during 2023/24 to use RIPA.

The Director of Governance and Legal Services & Monitoring Officer explained that it was rare for councils to use covert methods of surveillance now; it had been used more when councils had responsibility for investigating benefit fraud. It was also reported that the Deputy Monitoring Officer was revising the current RIPA policy.

The Chair spoke about their experience of considering applications for search warrants in Court.

The Committee noted the update.

STA47-23/24 COMPLAINTS UPDATE

The Director of Governance and Legal Services & Monitoring Officer provided a verbal update on complaints made against Councillors. It was reported that there were currently no outstanding complaints.

The Director of Governance and Legal Services & Monitoring Officer also reported that he was currently providing training to Parish Councils.

The meeting concluded at 14:23 hours.

Bolsover District Council

Standards Committee on 2nd September 2024

RIPA Policy

Report of the Director of Governance and Legal Services & Monitoring Officer

Classification	This report is public
Report By	Jim Fieldsend Director of Governance and Monitoring Officer

PURPOSE/SUMMARY OF REPORT

For Standards Committee to consider and approve the new RIPA policy.

REPORT DETAILS

1. Background

- 1.1 One of Standard Committee's responsibilities is for the Regulation of Investigatory Powers Act 2000 (RIPA) Policy and procedures which includes its monitoring revisions and approval.
- 1.2 The Regulation of Investigatory Powers Act 2000 (RIPA) is concerned with the regulation of surveillance and other intelligence gathering by public authorities in the conduct of their legitimate business. The ability to use surveillance methods to gather evidence is limited to those circumstance set out in the Act.
- 1.3 In addition the Investigatory Powers Act 2016 (IPA) sets out the extent to which certain investigatory powers may be used to interfere with privacy. In particular about the interception of communications, equipment interference and the acquisition and retention of communications data.
- 1.4 It is necessary for the Council to have a policy in place setting out procedure for use of the powers in both RIPA and IPA, however the current policy only refers RIPA.
- 1.5 The Council's Legal Services Manager (Deputy Monitoring Officer) has reviewed the policy and produced a revised policy to include the new legislative requirements.

2. Details of Proposal or Information

- 2.1 For Standards Committee to consider and approve the revised RIPA policy. A summary of what the policy covers is as follows.
- 2.1.1 An explanation of types of surveillance. The policy distinguishes overt surveillance, i.e. that which is undertaken openly and covert surveillance. Covert surveillance takes place where steps are taken to ensure the subject is aware that it is taking place. The policy also distinguishes between covert intrusive surveillance and covert directed surveillance. The Council is not permitted to carry out intrusive surveillance;
- 2.1.2 The use of CCTV cameras-Unconcealed CCTV cameras generally do not require a RIPA authorisation, however hidden cameras will need to be authorised.
- 2.1.3 The use of covert human intelligence source (CHIS). A CHIS is someone who conceals their identity to obtain evidence.
- 2.1.4 The authorisation process to be followed if an officer wishes to undertake covert surveillance. The initial stage is to obtain approval from an authorising officer. An authorising officer is a senior officer who has received appropriate training. When considering whether to approve covert surveillance or the use of a CHIS the authorising officer must consider that it is necessary and proportionate and there is evidence to support this. There then follows a secondary approval process where an application for Magistrates approval is required.
- 2.1.5 Communications data. This section deals with the acquisition of communications data, such as who sent communications, where it was sent and how, not the content of the communication.
- 2.2 The policy is now a more user-friendly version than the previous policy and includes clear flowcharts to assist members of staff involved in the various processes.

3. Reasons for Recommendation

- 3.1 To ensure that the Council has an up-to-date policy

4 Alternative Options and Reasons for Rejection

- 4.1 There are no options. The Council should have an up-to-date RIPA policy
-

RECOMMENDATION(S) that;

Standards Committee approves the RIPA policy, as attached at Appendix 1.

IMPLICATIONS:

Finance and Risk: Yes ☐ No ☒

Details:

None arising from this report.

On behalf of the Section 151 Officer

Legal (including Data Protection): Yes ☐ No ☒

Details:

None arising from this report.

On behalf of the Solicitor to the Council

Staffing: Yes ☐ No ☒

Details:

None arising from this report.

On behalf of the Head of Paid Service

DECISION INFORMATION

Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input type="checkbox"/> <input checked="" type="checkbox"/> Please indicate which threshold applies	No
Is the decision subject to Call-In? <i>(Only Key Decisions are subject to Call-In)</i>	No

District Wards Significantly Affected	None
Consultation: Leader / Deputy Leader <input checked="" type="checkbox"/> Executive <input type="checkbox"/> SLT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input checked="" type="checkbox"/>	Details:

Links to Council Ambition: Customers, Economy and Environment.
Demonstrating good governance

Links to Council Ambition: Customers, Economy and Environment.

DOCUMENT INFORMATION	
Appendix No	Title
1	Draft RIPA Policy

Background Papers
<i>(These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Executive you must provide copies of the background papers).</i>



Bolsover District Council

RIPA Policy

July 2024

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- Call with [Relay UK](#) - a free phone service provided by BT for anyone who has difficulty hearing or speaking. It's a way to have a real-time conversation with us by text.
- **Visiting** one of our [offices](#) at Clowne, Bolsover, Shirebrook and South Normanton

Policy Details	Comments / Confirmation (To be updated as the document progresses)
Policy title	RIPA Corporate Policy and Procedures
Current status – i.e. first draft, version 2 or final version	Draft (2024 Review)
Policy author	
Location of policy – i.e. L-drive, shared drive	S Drive
Member route for approval	Standards Committee
Cabinet Member (if applicable)	
Equality Impact Assessment approval date	July 2017
Partnership involvement (if applicable)	N/A
Final policy approval route i.e. Executive/ Council /Planning Committee	Standards Committee
Date policy approved	
Date policy due for review (maximum three years)	xx 2027
Date policy forwarded to Strategy and Performance (to include on Intranet and Internet if applicable to the public)	

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Appendix III	Guide for Authorising Officers authorising Covert Human Intelligence Sources	

Abbreviations

CCTV	Closed Circuit Television
Council	Bolsover District Council
CHIS	Covert Human Intelligence Source
DPA	Data Protection Act 2018
ECHR	European Convention for the Protection of Human Rights
HRA	Human Rights Act 1998
IPA	Investigatory Powers Act 2016
IPCO	Investigatory Powers Commissioners Office
JP	Justice of the Peace / Magistrate
OCDA	Office for Communications Data Authorisations
NAFN	National Anti-Fraud Network
POFA	Protection of Freedoms Act 2012
RIPA	Regulation of Investigatory Powers Act 2000
SPOC's	Single Points of Contact
SRO	Senior Responsible Officer (Monitoring Officer)

SECTION 1 - POLICY STATEMENT

Introduction

1. This Policy document is based upon the requirements of the Regulation of Investigatory Powers Act 2000, the national Code of Practice issued by the Home Office and Investigatory Powers Commissioner's Office. Links to the Home Office Guidance and Codes of Practice can be found here <https://www.gov.uk/government/collections/ripa-codes>
2. In limited circumstances the Council may wish to use surveillance techniques for the purpose of enforcing this Policy or other of its statutory functions. The requirements of RIPA and the IPA are most likely to apply to those sections of the Council with enforcement / investigatory functions.
3. RIPA is concerned with the regulation of surveillance and other intelligence gathering by public authorities in the conduct of legitimate business. IPA sets out the extent to which certain investigatory powers may be used to interfere with privacy.
4. RIPA sets out procedures that must be followed to ensure investigatory activity is lawful. Where properly authorised under RIPA the activity will be a justifiable interference with an individual's rights under the ECHR. If the interference is not properly authorised an action for breach of the HRA could be taken against the Council, a complaint of maladministration made to the

Local Government Ombudsman or a complaint made to the Investigatory Powers Tribunal. In addition, if the procedures are not followed any evidence collected may be disallowed by the courts.

5. IPA sets out procedures for the interception of communications, equipment interference and the acquisition and retention of communications data.
6. The aims of RIPA and IPA are to provide a balance between preserving people's right to privacy and enabling enforcement agencies to gather evidence for effective enforcement action. RIPA provides a statutory framework for the use of certain types of covert surveillance, IPA provides the statutory framework for the lawful interception and use of communications data.
7. Any potential use of RIPA / IPA should be referred to the Monitoring Officer for preliminary advice at the earliest possible opportunity on 01246 242472. In the Monitoring Officer's absence, advice should be sought from Legal Services Team Manager /Deputy Monitoring Officer on 01246 242 507.

PART 1 – RIPA

What RIPA does and does not do

1. RIPA **does**:-
 - require prior authorisation and judicial approval of directed surveillance;
 - prohibit the Council from carrying out intrusive surveillance;
 - require authorisation of the conduct and use of CHIS;
 - require safeguards for the conduct of the use of a CHIS.
2. RIPA **does not**:-
 - make unlawful conduct which is otherwise lawful;
 - prejudice or disapply any existing power available to the Council to obtain information by any means not involving conduct that may be authorised under RIPA. For example, it does not affect the Council's current powers to obtain information from the DVLA as to the owner of a vehicle or to obtain information from the Land Registry as to the owner of a property;
3. RIPA only applies to the Council's core functions – i.e. its statutory duties, and not staffing issues or contractual disputes.

Procedure

4. All covert surveillance shall be undertaken in accordance with the procedures set out in this document.
5. The Council shall ensure that covert surveillance is only undertaken where it complies fully with all applicable laws in particular the:-

- a. Human Rights Act 1998
 - b. Regulation of Investigatory Powers Act 2000
 - c. Protection of Freedoms Act 2012
 - d. Data Protection Act 2018
6. The Council will also have due regard to all official guidance and codes of practice particularly those issued by the Home Office, the Investigatory Powers Commissioner's Office, the Surveillance Camera Commissioner and the Information Commissioner.
7. In particular the following guiding principles shall form the basis of all covert surveillance activity undertaken by the Council:
 - Covert surveillance will only be undertaken where it is absolutely necessary to achieve the desired aims.
 - Covert surveillance will only be undertaken where it is proportionate to do so and in a manner that it is proportionate.
 - Adequate regard shall be had to the rights and freedoms of those who are not the target of the covert surveillance
 - All authorisations to carry out covert surveillance shall be granted by appropriately trained and designated authorising officers. A list of those authorising officers who have been nominated by their Directorate and have undertaken appropriate training is held by the SRO.
 - Covert surveillance which is regulated by RIPA shall only be undertaken after obtaining judicial approval.
 - The operation of this Policy will be overseen by the SRO, whose role is described later in this document.

Training

8. The SRO / Monitoring Officer will arrange regular training on RIPA. All authorising officers, designated persons and investigating officers should attend at least one session every two years and further sessions as and when required.
9. All Council officers undertaking and authorising covert surveillance shall be appropriately trained to ensure that they understand their legal and moral obligations.
10. Training can be arranged on request and requests should be made to the Monitoring Officer. In particular training should be requested for new starters within the Council who may be involved in relevant activities.

SECTION 2 - SURVEILLANCE

Types of Surveillance

1. Surveillance can be **overt** or **covert** and includes:-
 - Monitoring, observing or listening to persons, their movements, their conversations or their other activities or communications;
 - Recording anything monitored, observed or listened to in the course of surveillance; and
 - Surveillance by or with the assistance of a device
2. Indicators of whether investigatory activity will amount to surveillance include the formality and duration of the activity and the nature of what is being observed.

Overt Surveillance

3. The majority of the Council's surveillance activity will be overt surveillance, i.e. will be carried out openly. For example (i) where the Council performs regulatory checks on licensees to ensure they are complying with the terms of any licence granted; and (ii) where the Council advises a tenant that their activities will be monitored as a result of neighbour nuisance allegations. **This type of overt surveillance is normal Council business and does not require authorisation under RIPA.**
4. If Surveillance is being done openly, without making any attempt to conceal it or a warning letter is served on the target before the Surveillance is to be done, then it will be overt.

Covert Surveillance

5. This is where surveillance is carried out in a manner calculated to ensure that the person subject to the surveillance is unaware it is taking place. Covert surveillance can be intrusive or directed. The Council is not permitted to carry out covert intrusive surveillance. Paragraph 8 below explains when covert surveillance is intrusive and therefore not permitted. The Council is permitted to carry out covert directed surveillance subject to strict compliance with RIPA. Paragraph 9 below explains when covert surveillance is directed.
6. Part 2 of RIPA sets out a regulatory framework for the use of covert investigatory techniques by public authorities to ensure that they are compatible with the ECHR particularly Article 8, 'the right to respect for private and family life'.
7. The purpose of this part of the procedure is to help you decide what type of surveillance you are doing and whether it is therefore regulated by Part 2.

Covert Intrusive Surveillance

8. Covert intrusive surveillance takes place when covert surveillance is carried out in relation to anything taking place on residential premises or in a private vehicle and which involves the presence of an individual or surveillance device on the premises or in the vehicle, or which uses a device placed outside the premises or vehicle which consistently provides information of the same quality and detail as expected of a device placed inside. **The Council is not permitted to carry out this type of surveillance.** (see **Flowchart 1**)

Covert Directed Surveillance

9. This is surveillance that is:-

- Covert;
- Not intrusive;
- For the purposes of a specific investigation or operation;
- Likely to obtain private information* about a person (whether or not that person was the target of the investigation or operation); and
- Not carried out as an immediate response to events or circumstances which could not have been foreseen prior to the surveillance taking place.

* Private information includes any information relating to a person's private and family life including professional and business relationships, home and correspondence (whether at home, in a public place or in the work place).

10. Typically, local authorities may use Directed Surveillance when investigating benefit fraud, trading standards offences or serious environmental crime or antisocial behaviour. This may involve covertly filming or following an individual or monitoring their activity in other ways.

11. To help in deciding whether surveillance is Directed Surveillance please refer to **Flowchart 2**

12. Key points to note in relation to Directed Surveillance:-

- General observations do not constitute Directed Surveillance. The Covert Surveillance Code (para 3.33) states:

"The general observation duties of many law enforcement officers and other public authorities do not require authorisation under the 2000 Act, whether covert or overt. Such general observation duties frequently form part of the legislative functions of public authorities, as opposed to the pre-planned surveillance of a specific person or group of people."

- Surveillance is only Directed if it is covert. RIPA section 26(9)(a) states:

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

13. Where covert Surveillance needs to be done in an emergency and without time to authorise the activity (or where no Authorising Officer is immediately available) the surveillance can still be done. It will not constitute Directed Surveillance. The Covert Surveillance Code (para 3.32) states:

“Covert surveillance that is likely to reveal private information about a person but is carried out by way of an immediate response to events such that it is not reasonably practicable to obtain an authorisation under the 2000 Act, would not require a directed surveillance authorisation. The 2000 Act is not intended to prevent law enforcement officers fulfilling their legislative functions. To this end section 26(2)(c) of the 2000 Act provides that surveillance is not directed surveillance when it is carried out by way of an immediate response to events or circumstances the nature of which is such that it is not reasonably practicable for an authorisation to be sought for the carrying out of the surveillance.”

Directed Surveillance and Social Media

14. The use of the internet may be required to gather information prior to and/or during an investigation, which may amount to Directed Surveillance. Although information that individuals make publically available on the internet would not normally be classed as ‘private information’.
15. The revised Code of Practice for Covert Surveillance and Property Interference clarifies the position on the use of social media for surveillance and states at paras 3.10 to 3.17

“3.10 The growth of the internet, and the extent of the information that is now available online, presents new opportunities for public authorities to view or gather information which may assist them in preventing or detecting crime or carrying out other statutory functions, as well as in understanding and engaging with the public they serve. It is important that public authorities are able to make full and lawful use of this information for their statutory purposes. Much of it can be accessed without the need for RIPA authorisation; use of the internet prior to an investigation should not normally engage privacy considerations. But if the study of an individual’s online presence becomes persistent, or where material obtained from any check is to be extracted and recorded and may engage privacy considerations, RIPA authorisations may need to be considered. The following guidance is intended to assist public authorities in identifying when such authorisations may be appropriate.

3.11 The internet may be used for intelligence gathering and/or as a surveillance tool. Where online monitoring or investigation is conducted covertly for the purpose of a specific investigation or operation and is likely to result in the obtaining of private information about a person or group, an authorisation for directed surveillance should be considered, as set out elsewhere in this code. Where a person acting on behalf of a public authority is intending to engage with others online without disclosing his or her identity, a CHIS authorisation may be needed (paragraphs 4.10 to 4.16 of the Covert

Human Intelligence Sources code of practice provide detail on where a CHIS authorisation may be available for online activity).

3.12 In deciding whether online surveillance should be regarded as covert, consideration should be given to the likelihood of the subject(s) knowing that the surveillance is or may be taking place. Use of the internet itself may be considered as adopting a surveillance technique calculated to ensure that the subject is unaware of it, even if no further steps are taken to conceal the activity. Conversely, where a public authority has taken reasonable steps to inform the public or particular individuals that the surveillance is or may be taking place, the activity may be regarded as overt and a directed surveillance authorisation will not normally be available.

3.13 As set out in paragraph 3.14 below, depending on the nature of the online platform, there may be a reduced expectation of privacy where information relating to a person or group of people is made openly available within the public domain, however in some circumstances privacy implications still apply. This is because the intention when making such information available was not for it to be used for a covert purpose such as investigative activity. This is regardless of whether a user of a website or social media platform has sought to protect such information by restricting its access by activating privacy settings.

3.14 Where information about an individual is placed on a publicly accessible database, for example the telephone directory or Companies House, which is commonly used and known to be accessible to all, they are unlikely to have any reasonable expectation of privacy over the monitoring by public authorities of that information. Individuals who post information on social media networks and other websites whose purpose is to communicate messages to a wide audience are also less likely to hold a reasonable expectation of privacy in relation to that information.

3.15 Whether a public authority interferes with a person's private life includes a consideration of the nature of the public authority's activity in relation to that information. Simple reconnaissance of such sites (i.e. preliminary examination with a view to establishing whether the site or its contents are of interest) is unlikely to interfere with a person's reasonably held expectation of privacy and therefore is not likely to require a directed surveillance authorisation. But where a public authority is systematically collecting and recording information about a particular person or group, a directed surveillance authorisation should be considered. These considerations apply regardless of when the information was shared online. See also paragraph 3.6.

3.16 In order to determine whether a directed surveillance authorisation should be sought for accessing information on a website as part of a covert investigation or operation, it is necessary to look at the intended purpose and scope of the online activity it is proposed to undertake. Factors that should be considered in establishing whether a directed surveillance authorisation is required include:

- 1 *Whether the investigation or research is directed towards an individual or organisation;*
- 2 *Whether it is likely to result in obtaining private information about a person or group of people (taking account of the guidance at paragraph 3.6 above);*
- 3 *Whether it is likely to involve visiting internet sites to build up an intelligence picture or profile;*
- 4 *Whether the information obtained will be recorded and retained;*
- 5 *Whether the information is likely to provide an observer with a pattern of lifestyle;*
- 6 *Whether the information is being combined with other sources of information or intelligence, which amounts to information relating to a person's private life;*
- 7 *Whether the investigation or research is part of an ongoing piece of work involving repeated viewing of the subject(s);*
- 8 *Whether it is likely to involve identifying and recording information about third parties, such as friends and family members of the subject of interest, or information posted by third parties, that may include private information and therefore constitute collateral intrusion into the privacy of these third parties.*

3.17 Internet searches carried out by a third party on behalf of a public authority, or with the use of a search tool, may still require a directed surveillance authorisation (see paragraph 4.32)."

16. The Council does not ordinarily permit the use of false personas to obtain information.
17. Officers should not make repeated visits to the same open source social media site as part of an investigation without first speaking with the SRO or Legal Services to ensure their actions are lawful.

CCTV

18. The installation and use of unconcealed CCTV cameras for the purpose of generally observing activity in a particular area is not surveillance requiring RIPA authorisation. There are specific provisions relating the use of CCTV cameras in public places and buildings. However, if CCTV cameras are being used in such a way that the definition of covert directed surveillance is satisfied, RIPA authorisation should be obtained.
19. For example the use of town centre CCTV systems to identify those responsible for a criminal act immediately after it happens will not require RIPA authorisation. However, the use of the same CCTV system to conduct planned surveillance of an individual and record their movements is likely to require authorisation.
20. Protocols should be agreed with any external agencies requesting the use of the Council's CCTV system. The protocols should ensure that the Council is

satisfied that authorisations have been validly granted prior to agreeing that the CCTV system may be used for directed surveillance.

21. CCTV systems cannot be used without prior production of an authorisation and such authorisations must be retained.

SECTION 3 - COVERT HUMAN INTELLIGENCE SOURCE (CHIS)

1. A CHIS is somebody who is concealing or misrepresenting their true identity or purpose in order to covertly gather or provide access to information from the target. Examples of a CHIS include a private investigator pretending to live on a housing estate to gather evidence of drug dealing or an informant who gives information to Trading Standards about illegal business practices in a factory or shop.
2. To help in deciding whether surveillance involves a CHIS please refer to **Flowchart 3**
3. Key points to note in relation to CHIS'

- A public volunteer is not a CHIS. The CHIS code (para 2.21) states:

"In many cases involving human sources, the source will not have established or maintained a relationship for a covert purpose. Many sources provide information that they have observed or acquired other than through a relationship. This means that the source is not a CHIS for the purposes of the 2000 Act and no authorisation is required."

- Merely giving a complainant a diary sheet to note comings and goings will not make that person a CHIS. There must be covert use of the relationship to provide access to, or to disclose information covertly for someone to be a CHIS.

- A test purchaser may not always require authorisation (even though they are a CHIS).

4. The safety and welfare of the CHIS is paramount. Risk assessments should be carried out to determine the risk of tasking a CHIS and the activities being undertaken by the particular person appointed. The risk assessments should be regularly reviewed during the course of the investigation.

CHIS' and Social Media

5. The revised Code of Practice for Covert Human Intelligence Sources at paras 4.29 to 4.35 sets out the position on the use of social media in a potential CHIS context:

"4.29 Any member of a public authority, or person acting on their behalf, who conducts activity on the internet in such a way that they may interact with

others in circumstances where the other parties could not reasonably be expected to know their true identity , should consider whether the activity requires a CHIS authorisation. This applies whether the interaction involves publicly open websites such as an online news and social networking service, or more private exchanges such as messaging sites. Where the activity is likely to result in obtaining private information but does not amount to establishing or maintaining a CHIS relationship, consideration should be given to the need for a directed surveillance authorisation.

4.30 Where someone, such as an employee or member of the public, is tasked by a public authority to use an internet profile to establish or maintain a relationship with a subject of interest for a covert purpose, or otherwise undertakes such activity on behalf of the public authority, in order to obtain or provide access to information, a CHIS authorisation is likely to be required. For example:

- an investigator using the internet to engage with a subject of interest at the start of an operation, in order to ascertain information or facilitate a meeting in person;*
- directing a member of the public to use their own or another internet profile to establish or maintain a relationship with a subject of interest for a covert purpose;*
- joining chat rooms with a view to interacting with a criminal group in order to obtain information about their criminal activities.*

4.31 A CHIS authorisation will not always be appropriate or necessary for online investigation or research. Some websites require a user to register providing personal identifiers (such as name and phone number) before access to the site will be permitted. Where a member of a public authority sets up a false identity for this purpose, this does not in itself amount to establishing a relationship, and a CHIS authorisation would not immediately be required. However, consideration should be given to the need for a directed surveillance authorisation if the conduct is likely to result in the acquisition of private information, and the other relevant criteria are met.

4.32 Where a website or social media account requires a minimal level of interaction, such as sending or receiving a friend request before access is permitted, this may not in itself amount to establishing a relationship. Equally, the use of electronic gestures such as “like” or “follow” to react to information posted by others online would not in itself constitute forming a relationship. However, it should be borne in mind that entering a website or responding on these terms may lead to further interaction with other users and a CHIS authorisation should be obtained if there is an intention to engage in such interaction to obtain, provide access to or disclose information.

4.33 When engaging in conduct as a CHIS, 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 considering the need for a CHIS

authorisation. Full consideration should be given to the potential risks posed by that activity.

4.34 Where use of the internet is part of the tasking of a CHIS, the risk assessment carried out in accordance with paragraphs 7.15 to 7.21 of this Code should include consideration of the risks arising from that online activity including factors such as the length of time spent online and the material to which the CHIS may be exposed. This should also take account of any disparity between the technical skills of the CHIS and those of the handler or Authorising Officer, and the extent to which this may impact on the effectiveness of oversight.

4.35 Where it is intended that more than one person will share the same online persona, each individual should be clearly identifiable within the overarching authorisation for that operation. The authorisation should provide clear information about the conduct required of – and the risk assessments in relation to – each individual involved. (See also paragraphs 3.32 to 3.36).”

SECTION 4 - AUTHORISATION PROCEDURES

Completing the forms

1. Once it is decided what type of surveillance is being undertaken, the appropriate forms must be completed and sent to the Authorising Officer for approval.
2. The forms can be found on the Home Office Website [RIPA forms - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/364811/RIPA_forms_-_GOV.UK.pdf). A guide to completing the forms can be found at **Appendix I** (Since the introduction of the POFA local authorities no longer have the power to make urgent oral authorisations - all authorisations, even if urgent, must be made in writing and the relevant judicial approval must be sought.)
3. **Officers contemplating the use of RIPA should first seek the advice of the Monitoring Officer**

Authorising Officers

4. The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (SI 2010 N0.521) states that the Authorising Officer for a local authority can be a Director, Head of Service, Service Manager or equivalent. A list of the Council's Authorising Officers is held by the SRO. All authorising officers will be nominated by their Directorates, as being of sufficient rank and having undertaken appropriate RIPA training. Once the SRO is satisfied that this is the case they will be added to the list of Authorising officers, held by the SRO.
5. Authorised Officers are responsible for assessing and authorising covert directed surveillance and the use of CHIS’.

6. It is the responsibility of Authorising Officers to ensure that when applying for authorisation the principles of necessity and proportionality (see Section 5, paragraph 8) are adequately considered and evidenced; and that reviews and cancellations of authorisations are carried out as required under this Policy (see Section 5, paragraphs 5.4 – 5.12).
7. Authorising officers are responsible for ensuring that they have received RIPA training prior to authorising RIPA activity. When applying for or authorising RIPA activity under the Policy, officers must also take into account the corporate training and any other guidance issued from time to time by the Monitoring Officer.

Authorising Directed Surveillance

8. Section 28 of RIPA states:

“(1) Subject to the following provisions of this Part, the persons designated for the purposes of this section shall each have power to grant authorisations for the carrying out of directed surveillance.

(2) A person shall not grant an authorisation for the carrying out of directed surveillance unless he believes—

- (a) that the authorisation is necessary on grounds falling within subsection (3); and*
- (b) that the authorised surveillance is proportionate to what is sought to be achieved by carrying it out.*

(3) An authorisation is necessary on grounds falling within this subsection if it is necessary—

- (a) in the interests of national security;*
- (b) for the purpose of preventing or detecting crime or of preventing disorder;*
- (c) in the interests of the economic well-being of the United Kingdom;*
- (d) in the interests of public safety;*
- (e) for the purpose of protecting public health;*
- (f) for the purpose of assessing or collecting any tax, duty, levy or other imposition, contribution or charge payable to a government department; or*
- (g) for any purpose (not falling within paragraphs (a) to (f)) which is specified for the purposes of this subsection by an order made by the Secretary of State.*

(4) The conduct that is authorised by an authorisation for the carrying out of directed surveillance is any conduct that—

- a) consists in the carrying out of directed surveillance of any such description as is specified in the authorisation; and*
- (b) is carried out in the circumstances described in the authorisation and for the purposes of the investigation or operation specified or described in the authorisation.*

9. To help in deciding whether Directed Surveillance should be authorised please refer to **Flowchart 4**
10. Authorising Officers are referred to **Appendix II** which offers Guidance on things to consider when deciding whether to authorise Directed Surveillance.

Authorising the use of a CHIS

11. Section 29 of RIPA states:

“(1) Subject to the following provisions of this Part, the persons designated for the purposes of this section shall each have power to grant authorisations for the conduct or the use of a covert human intelligence source.

(2) A person shall not grant an authorisation for the conduct or the use of a covert human intelligence source unless he believes—

- (a) that the authorisation is necessary on grounds falling within subsection (3);*
- (b) that the authorised conduct or use is proportionate to what is sought to be achieved by that conduct or use; and*
- (c) that arrangements exist for the source's case that satisfy—*
 - (i) the requirements of subsection (4A), in the case of a source of a relevant collaborative unit;*
 - (ii)*
 - (iii) the requirements of subsection (5), in the case of any other source;*

and that satisfy such other requirements as may be imposed by order made by the Secretary of State.

(2A) For the meaning of “relevant collaborative unit” in subsection (2)(c)(i), see section 29A.

(3) An authorisation is necessary on grounds falling within this subsection if it is necessary—

- (a) in the interests of national security;*
- (b) for the purpose of preventing or detecting crime or of preventing disorder;*
- (c) in the interests of the economic well-being of the United Kingdom;*
- (d) in the interests of public safety;*
- (e) for the purpose of protecting public health;*
- (f) for the purpose of assessing or collecting any tax, duty, levy or other imposition, contribution or charge payable to a government department; or*
- (g) for any purpose (not falling within paragraphs (a) to (f)) which is specified for the purposes of this subsection by an order made by the Secretary of State.*

(4) The conduct that is authorised by an authorisation for the conduct or the use of a covert human intelligence source is any conduct that—

(a) is comprised in any such activities involving conduct of a covert human intelligence source, or the use of a covert human intelligence source, as are specified or described in the authorisation;

(b) consists in conduct by or in relation to the person who is so 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.

(4A) For the purposes of this Part there are arrangements for the source's case that satisfy the requirements of this subsection if such arrangements are in force as are necessary for ensuring—

(a) that there will at all times be a qualifying person who will have day-to-day responsibility for dealing with the source, and for the source's security and welfare (see section 29A for the meaning of "qualifying person") ;

(b) that there will at all times be another qualifying person who will have general oversight of the use made of the source;

(c) that there will at all times be a qualifying person 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 virtue of paragraph (c) 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 virtue of paragraph (c) 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.

(4B).

(5) For the purposes of this Part there are arrangements for the source's case that satisfy the requirements of this subsection if such arrangements are in force as are necessary for ensuring—

(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.

(6) The Secretary of State shall not make an order under subsection (3)(g) unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

(6ZA) An authorisation for the conduct or the use of a covert human intelligence source does not authorise any criminal conduct in the course of, or otherwise in connection with, the conduct of a covert human intelligence source (but see section 29B for provision for the authorisation of such conduct).

(6A) An authorisation under this section may not have the effect of authorising a covert human intelligence source who is a person designated under section 38 of the Police Reform Act 2002 to establish contact in person with another person.

(7) The Secretary of State may by order—

(a) prohibit the authorisation under this section of any such conduct or uses of covert human intelligence sources as may be described in the order; and

(b) impose requirements, in addition to those provided for by subsection (2), that must be satisfied before an authorisation is granted under this section for any such conduct or uses of covert human intelligence sources as may be so described.

(7A).

(7B).

(8) In this section “relevant investigating authority”, in relation to an authorisation for the conduct or the use of an individual as a covert human intelligence source, means (subject to subsection (9)) the public authority for whose benefit the activities of that individual as such a source are to take place.

(9) In the case of any authorisation for the conduct or the use of a covert human intelligence source whose activities are to be for the benefit of more than one public authority, the references in subsection (5) to the relevant investigating authority are references to one of them (whether or not the same one in the case of each reference).

11. To help in deciding whether use of a CHIS should be authorised please refer to **Flowchart 5**

12. Authorising Officers are referred to **Appendix III** which offers Guidance on things to consider when deciding whether to authorise use of a CHIS.

Next stage after Authorisation

1. Once the Directed Surveillance and / or use of a CHIS has been authorised by an Authorised Officer the stage is to seek approval from the Magistrates Court

SECTION 5 - MAGISTRATES APPROVAL

General

1. The POFA came into force in November 2012. The POFA changed the procedure for the authorisation of local authority surveillance under RIPA.
2. Local authorities are required to obtain the approval of a JP for the use of Directed Surveillance and CHIS.
3. Guidance can be found on the Home Office website providing advice on how local authorities can ensure they are following the correct processes and changes in the legislation [Changes to local authority use of RIPA - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

Process

4. Once (internally) authorisation has been given / signed by an Authorised Officer, Legal Services will need to make contact with the court listing office and arrange a hearing date and time.
5. The officer who has sought the authorisation will need to attend court, accompanied by Legal Services. The officer will be sworn in, and expected to give evidence under oath.
6. The court will be provided (by Legal Services) with a copy of all the relevant forms and authorisations relevant to the application.
7. The hearing will be in private, and heard by a single JP who will consider the forms and authorisation etc. Since the introduction of the POFA it is no longer sufficient for the local authority to rely on oral evidence – the authorisation and forms must be sufficient by themselves to make the case for approval. The JP can though ask questions of the officer for clarification or for additional reassurances.
8. The JP will decide whether they are satisfied that, at the time the authorisation was granted or renewed, there were reasonable grounds for believing that the authorisation was necessary and proportionate. They will consider whether there continue to be reasonable grounds. The JP must also be satisfied that the Authorising Officer was of an appropriate level within the Council's structure and that the authorisation was made in accordance with any applicable legal restrictions.
9. JP's may decide to:

- Approve the grant/renewal of the authorisation (the Council can then proceed to use the surveillance technique mentioned therein)
 - Refuse to approve the grant/renewal of the authorisation on a technicality (the RIPA authorisation won't take effect and the local authority cannot use the surveillance technique. Technical errors can be rectified without the need to recommence the authorisation process again, then the authority can reapply to the court)
 - Refuse to grant/renew and quash the authorisation (the RIPA authorisation won't take effect and the local authority cannot use that surveillance technique. The JP cannot exercise their power to quash an authorisation unless the local authority has been given 2 working days in which to prepare and make further representations).
10. The JP will then complete the Order section of the judicial application/order form. One copy will need to be retained by the Council – this signed documents is the approval.
 11. A local authority can only appeal a JPs decision to refuse approval of an authorisation on a point of law by seeking a Judicial Review in the High Court.

Time Limits

12. If the JP approves the authorisation, the authorisation will last:
 - For 3 months if the authorisation is for Directed Surveillance, and
 - For 12 months if the authorisation is for a CHIS

PART 2 – COMMUNICATIONS DATA

SECTION 6 - ACQUISITION AND DISCLOSURE OF COMMUNICATIONS DATA

1. With effect from 5 February 2019, and in accordance with Part 3 and chapter 2 of Part 6 of the IPA Local Authorities can obtain communications data ('Data') provided that the acquisition of such Data is necessary for the applicable crime purpose; and proportionate to what is sought to be achieved by acquiring it
2. The applicable crime purpose will depend upon whether the communications data being sought is classified as entity data or events data. Where the Data sought is wholly or partly events data the purpose must be for a serious crime. In any other case the Data must be for the purpose of preventing or detecting crime or of preventing disorder.

Serious crime" means crime where-

- the offence, or one of the offences, which is or would be constituted by the conduct concerned is an offence for which a person who has reached the age of 18 and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of 1 year or more, or
 - the conduct involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose
3. The Communications data Code of Practice can be accessed here: <https://www.gov.uk/government/publications/code-of-practice-for-the-acquisition-and-disclosure-of-communications-data>

Important: The Council is NOT Permitted to Intercept any Communications

4. The purpose and effect of the procedure is the same as RIPA i.e. to ensure proper consideration is given to permitting such investigations and to provide protection against a human rights challenge.
5. Applications for Data are subject to independent examination, scrutiny and approval by the IPCO through the OCDA. All applications for Data must be undertaken online through NAFN acting as single point of contact SPOC pursuant to the IPA.

What is ‘Communications Data’?

1. The term Communications Data (‘Data’) includes the “who”, “where”, and “how” of a communication but not the content i.e. what was said or written. Data is generated, held or obtained in the provision, delivery and maintenance of communications services i.e. postal services or telecommunications services.
2. The Council may only acquire less intrusive types of Data. These are:
 - Entity Data – this data describes or identifies the entity. Entities can be individuals and objects (such as mobile phones).
 - Events Data –for Data this is limited to communications events which identifies any person, apparatus or location to or from which a communication is transmitted e.g. incoming call records, the location of a mobile phone, or numbers called
3. Data relating to Events data is more intrusive than data relating to Entities Data

SECTION 7 – AUTHORISATIONS

4. The Monitoring Officer shall be appointed as the Council’s SRO. The SRO is responsible for

- the integrity of the process in place within the public authority to acquire communications data;
- engagement with authorising officers in the Office for Communications Data Authorisations (where relevant);
- compliance with Part 3 of IPA and with the code, including responsibility for novel or contentious cases;
- oversight of the reporting of errors to the IPCO and the identification of both the cause(s) of errors and the implementation of processes to minimise repetition of errors;
- ensuring the overall quality of applications submitted to OCDA by the public authority;
- engagement with the IPCO's inspectors when they conduct their inspections; and
- where necessary, oversight of the implementation of post-inspection action plans approved by the IPCO.

Application Forms

5. The Council will maintain a collaboration agreement with the National Anti-Fraud Network (NAFN). All applications must be made online at <https://www.nafn.gov.uk/> NAFN will act as SPOC between both the communications service providers (CSPs) and the Council concerning the request and provision of Data. This is to ensure a centralised and managed approach in making applications to obtain Data and facilitates lawful acquisition of Data and effective co-operation between the Council and CSPs.
6. In addition to being considered by a NAFN SPOC, the applicant for Data must ensure that the Council's SRO is aware of the application being made before it is submitted to an authorising officer in OCDA. The Council's SRO's will be notified to NAFN.

Duration

7. Authorisations to obtain Data are only valid for one month beginning with the date on which the OCDA approval is granted

Renewal and Cancellation

8. An authorisation may be renewed at any time during the month it is valid using the same procedure as used in the original application (including seeking OCDA approval). A renewal takes effect on the date which the authorisation it is renewing expires.
9. The code requires that all authorisations must be cancelled by the Council or OCDA as soon as it is no longer necessary, or the conduct is no longer proportionate to what is sought to be achieved.

10. The Council must notify the SPOC which must cease the authorised conduct.

Retention of Records

11. Applications, authorisations and notices must be retained until the Council has been audited by the Commissioner. Applications must also be retained to allow the Tribunal (see paragraph 14 and 15 below) to carry out its functions.

12. A record must be kept of:

- the dates of which the authorisation or notice is started or cancelled;
- any errors that have occurred in the granting of authorisations or giving of notices.

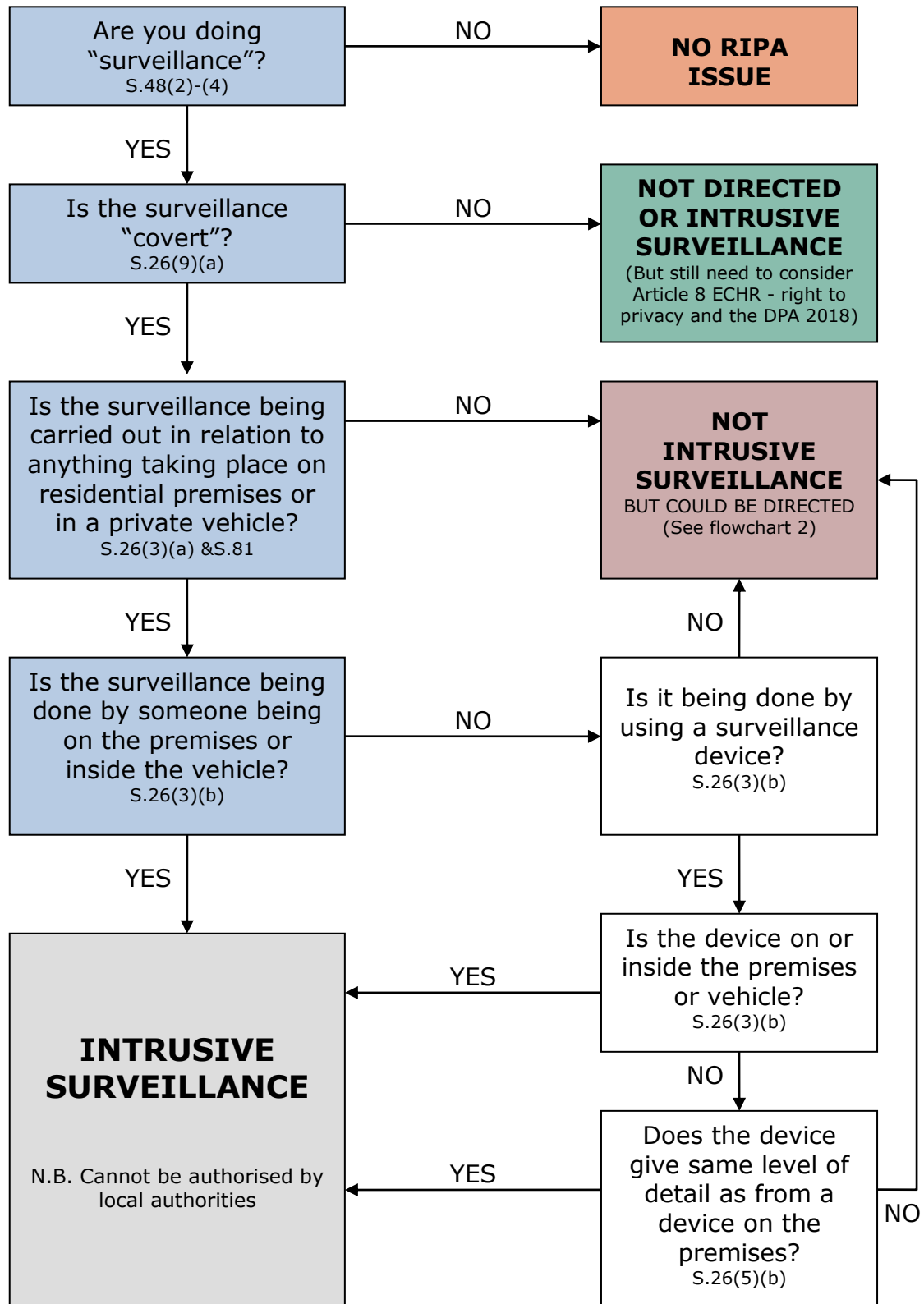
13. A report and explanation of any errors must also be sent to the Commissioner as soon as is practicable. Communications data, and all copies, extracts and summaries of it, must be handled and stored securely and the requirements of the GDPR must be observed. The Monitoring Officer will maintain a centrally retrievable register.

Oversight and Complaints

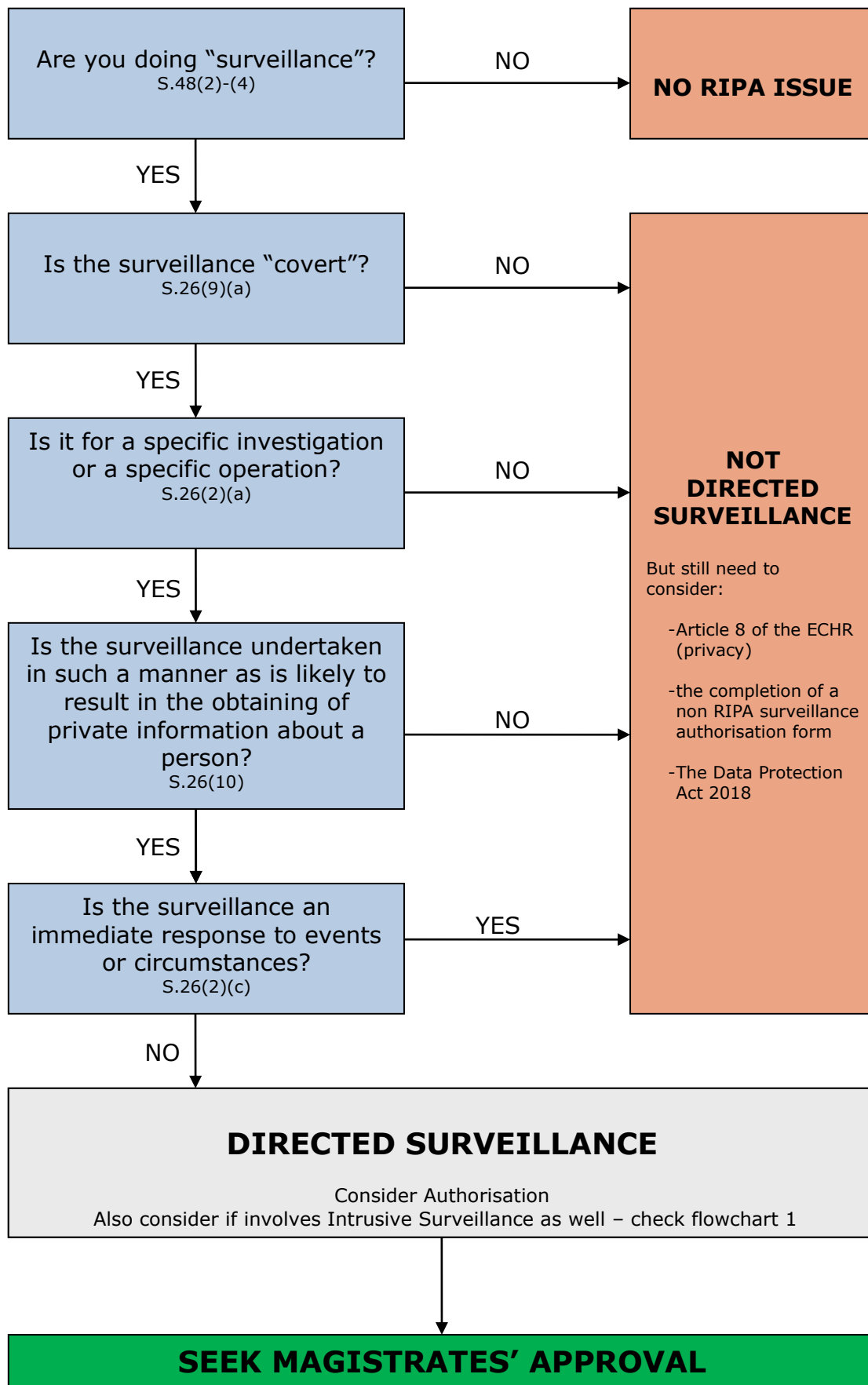
14. The IPA provides for an IPCO whose remit is to provide independent oversight of the use of the powers contained within the IPA and the code requires any person who uses the powers conferred by the IPA to comply with any request made by the Commissioner to provide any information he requires to enable him to discharge his functions.

15. The IPCO must inform any affected person of any rights that the person may have to apply to the Investigatory Powers Tribunal.

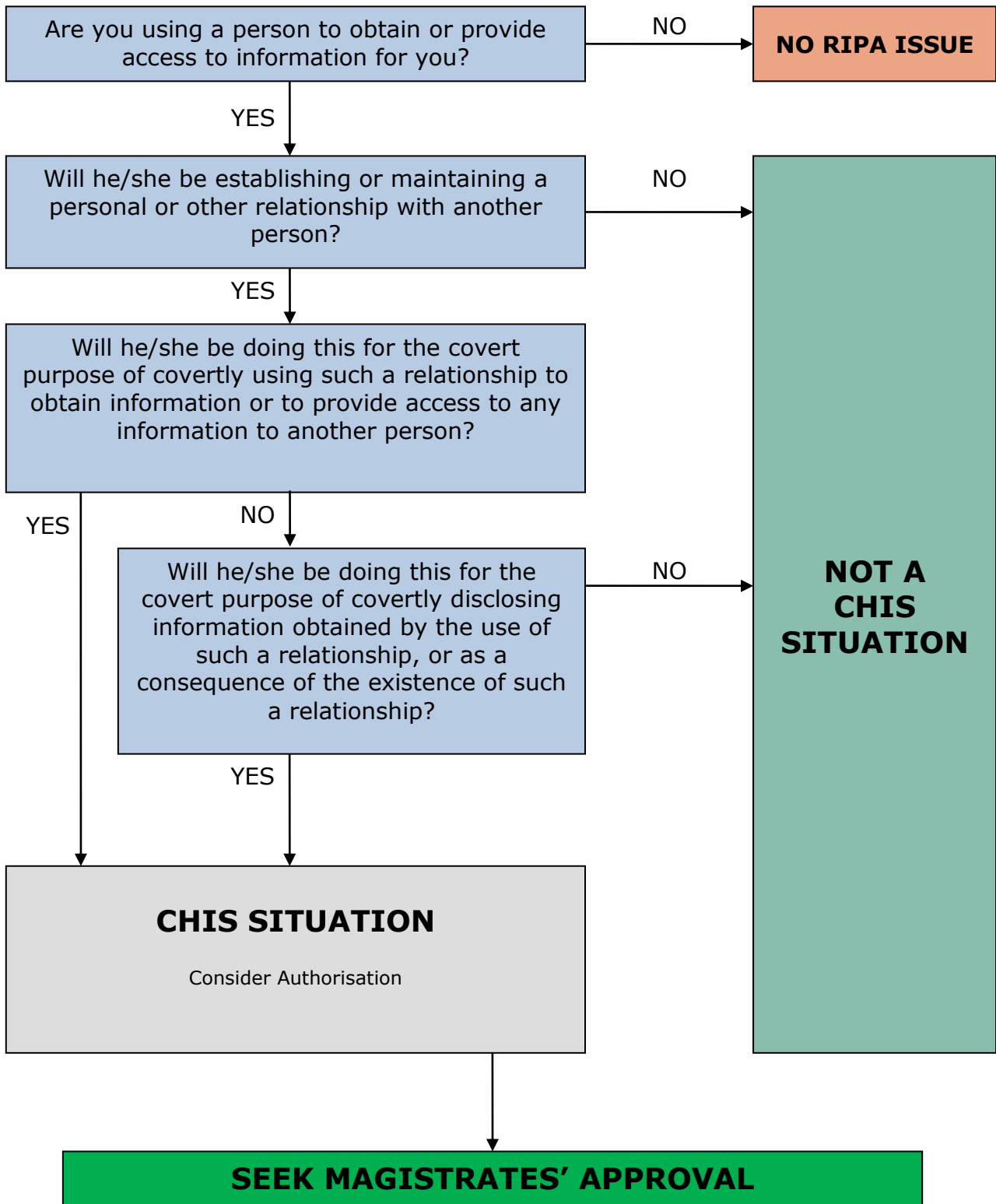
Flowchart 1 - Are you doing Intrusive Surveillance?



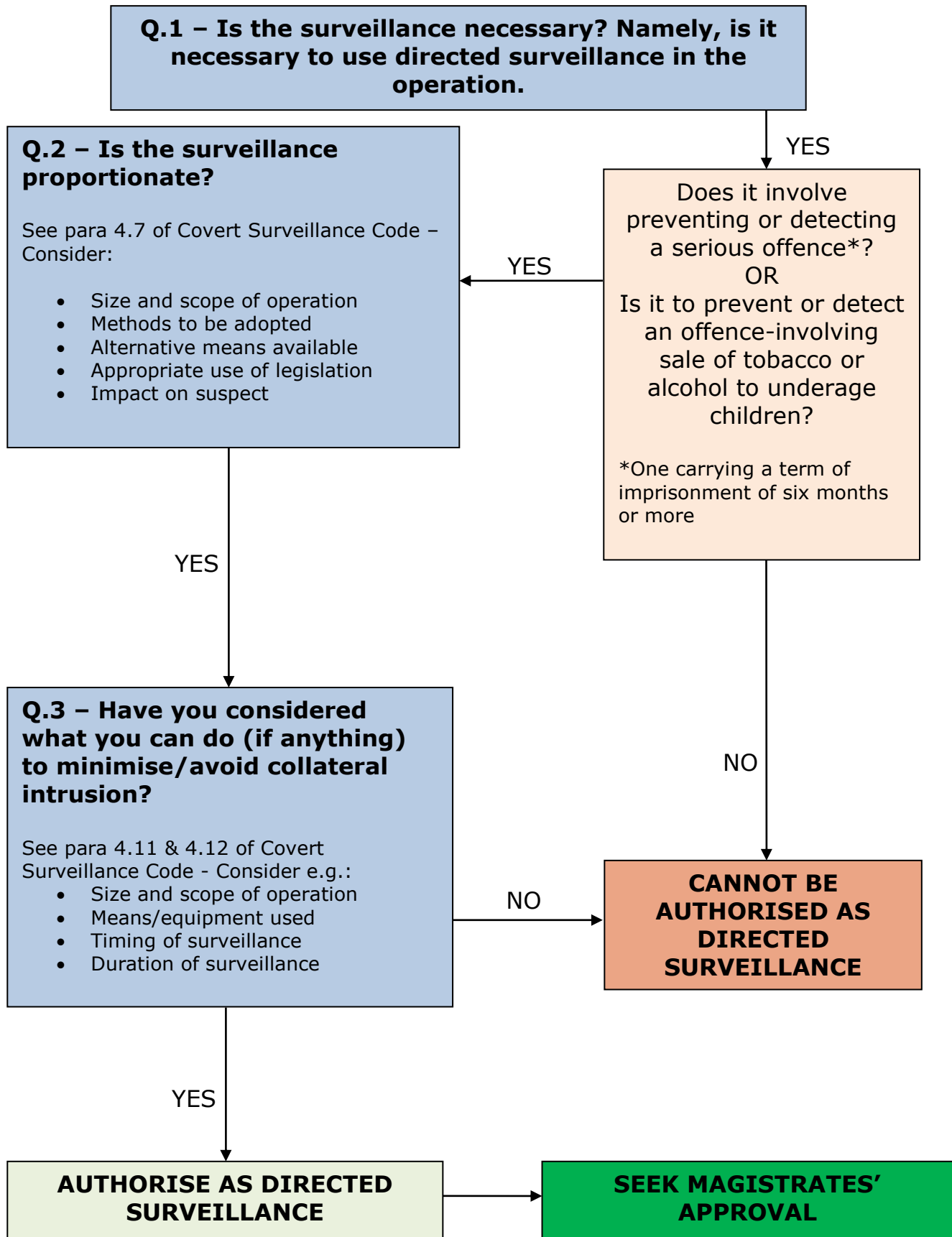
Flowchart 2 - Are you conducting Directed Surveillance?



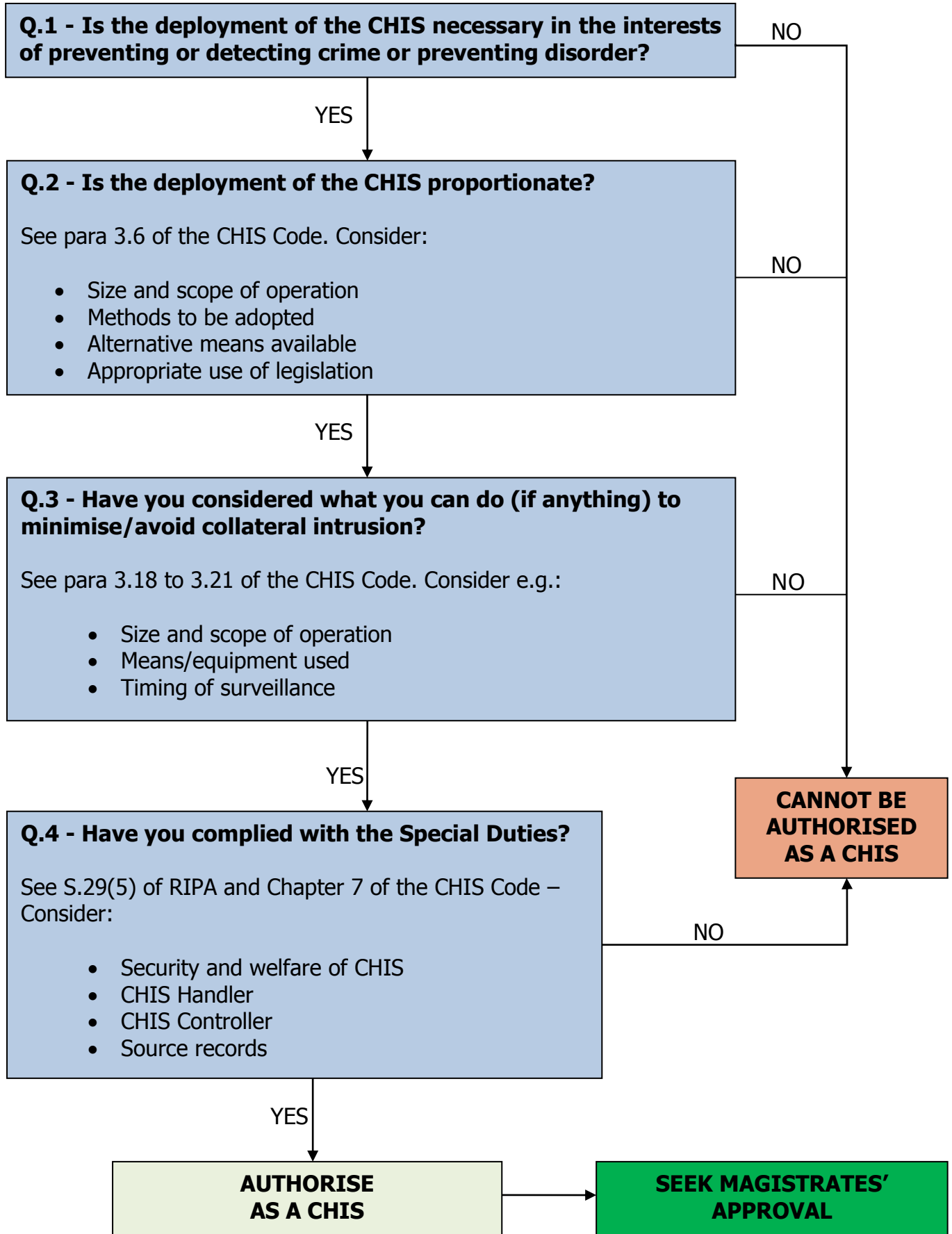
Flowchart 3 - Are you deploying a CHIS?



Flowchart 4 - Authorising Directed Surveillance



Flowchart 5 - Authorising a CHIS



APPENDIX 1

Guide for officers completing forms

PROCEDURE FOR COMPLETING THE RIPA FORMS

The application forms (RIPA and CHIS) can be downloaded from the Home Office RIPA website

The Home Office states that public authorities may use these forms or adapt them, for example to include corporate logos or images or to combine review and renewal, or renewal and cancellation forms. However, if they adapt these forms for their own purposes - to record extra information that is not strictly necessary to ensure and demonstrate compliance with RIPA - that additional local requirement should be indicated as being distinct from the necessary recording of RIPA considerations and decisions. On no account though should the forms be pre completed with standard wording, as each application should be made with the specific circumstances of the investigation in mind.

What to do

1. Decide what types of surveillance you are doing (refer to the guidance in Part 1 Section 2 of this procedure).
2. Use this guidance and associated precedents to complete the appropriate forms. The following documents will also assist in this task:
 - a) The Covert Surveillance and Property Interference Code of Practice
 - b) The Covert Human Intelligence Sources Code of Practice
3. Once completed, the forms should be sent to the most appropriate authorising Officer for approval. A list of Authorising Officers is available from the SRO.
4. The Authorising Officer should be reminded to read Part 1 Section 4 of this procedure before completing their sections of the form. All authorisation forms should be signed in hard copy by the authorising officer, as opposed to any system of using an electronic signature.
5. If you are seeking a new authorisation or renewing an existing one, remember that it cannot take effect until a Magistrate has approved it. The procedure for this is set out in Part 1 Section 7 of this document.
6. The original of each completed form (including cancellation forms) should be sent to the SRO who maintains the Council's Central Record of Authorisations, with a copy kept on the operational file.

COMMON MISTAKES IN RIPA FORMS

(Highlighted by the IPOC)

Officers should be aware of the following mistakes when they undertake their respective roles in the RIPA process.

Investigating Officers' Mistakes

- Using of out of date Home Office forms
- Not quoting a unique reference number (URN)
- Copying (cutting and pasting) wording from old authorisation forms
- Failing to give a detailed explanation of what the surveillance will involve
- A surfeit of surveillance tactics and equipment being requested and granted but rarely fully used when reviews and cancellations are examined
- Failing to consider and/or explain the proportionality factors
- Poor and over-formulaic consideration of potential collateral intrusion and how this will be managed
- Failing to consider likelihood of obtaining Confidential Information
- Failing to recognise or be alive to the possibility that someone may have met the CHIS criteria
- Failing to authorise a CHIS promptly as soon as they have met the criteria
- Over-generic risk assessments for a CHIS and not updated to enable the Authorising Officer to identify emergent risks
- Failing to send completed forms to the RIPA Coordinator

Please also read paragraph 4.40 and 4.41 of the Covert Surveillance and Property Interference Code which sets out best working practices with regard to all applications for authorisations under RIPA.

Authorising Officers' Mistakes

- Too many Authorising Officers within the Authority
- Repetitive narrative and rubber stamping without proper consideration of all the facts set out in the authorisation form
- Not knowing the capability of the surveillance equipment which is being authorised.

(For instance, there are differences between video cameras that record continuously and those activated by motion; and between thermal image and infrared capability. These differences may have an important bearing on how a surveillance operation is conducted and the breadth of the authorisation being granted. Therefore, a simple authorisation for 'cameras' is usually insufficient)

- Failing to demonstrate that less intrusive methods have been considered and why they have been discounted in favour of the tactic selected
- Discussions that take place between the Authorising Officer and those charged with the management of the CHIS under section 29(5) of RIPA are not always captured in an auditable manner for later recall or evidence
- At cancellation, a lack of adequate, meaningful update for the Authorising Officer to assess the activity conducted, any collateral intrusion that has occurred, the value of the surveillance and the resultant product; with, often a similarly paltry input by Authorising Officers as to the outcome and how product must be managed
- Failing, when cancelling authorisations, to give directions for the management and storage of the product of the surveillance
- No robust management and quality assurance procedures including no regular audits

APPENDIX II

Guide for authorising officers authorising Directed Surveillance

AUTHORISING DIRECTED SURVEILLANCE: RULES AND CRITERIA

Section 27 of RIPA provides a powerful defence if covert surveillance is challenged:

“(1) Conduct to which this Part applies shall be lawful for all purposes if -

- (a) an authorisation under this Part confers an entitlement to engage in that conduct on the person whose conduct it is; and*
- (b) his conduct is in accordance with the authorisation.”*

To take advantage of this defence, the surveillance needs to be properly authorised. S.28 sets out the criteria for authorising Directed Surveillance, whilst S.29 covers CHIS.

The Authorising Officer

The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (SI 2010 N0.521) states that the Authorising Officer for a local authority can be a Director, Head of Service, Service Manager or equivalent. As stated above, a list of the Council's approved Authorising Officers is held by the SRO. A list of the current Authorising Officers is set out in section 6.

Where the surveillance involves the likelihood of obtaining confidential information or the deployment of juveniles or vulnerable people, then the authorisation has to be sought from the Head of Paid Service or, in his/her absence, the acting Head of Paid Service.

Time Limits

The current time limits for an authorisation are 3 months for Directed Surveillance and 12 months for a CHIS (1 month if the CHIS is underage), from the date of the Magistrates' approval.

A renewal must be authorised prior to the expiry of the original authorisation, but it runs from the expiry date and time of that original authorisation. Authorisations may be renewed more than once if still considered necessary and proportionate and approved by a Magistrate.

Applications for renewals should not be made until shortly before the original authorisation period is due to expire but local authorities must take account of factors, which may delay the renewal process (e.g. intervening weekends or the availability of the relevant local authority authorising officer and a Magistrate to consider the application).

Authorising Officer's Consideration (Chapter 3, Covert Surveillance Code)

S.28(2) states:

“A person shall not grant an authorisation for the carrying out of directed surveillance unless he believes -

- (a) that the authorisation is necessary on grounds falling within subsection (3); and*
- (b) that the authorised surveillance is proportionate to what is sought to be achieved by carrying it out.”*

Please consult Flowchart 4 when deciding whether Directed Surveillance should be authorised.

The first question that the Authorising Officer needs to ask is: Is the surveillance necessary? Namely, is it necessary to use directed surveillance in the operation.

The surveillance has to be necessary on one of the grounds set out within in S.28(3). Previously local authorities could authorise Directed Surveillance where it was necessary “

“for the purpose of preventing or detecting crime or of preventing disorder.”
(S.28(3)(b))

The Home Office Review, which reported in January 2011, recommended that where local authorities wish to use Directed Surveillance, this should be confined to cases where the offence under investigation is a serious offence.

This recommendation was put into effect by [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) \(Amendment\) Order 2012, SI 2012/1500](#) which was made in June 2012 and came into force on 1st November 2012. This amends the [Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) Order 2010, SI 2010/521](#) (“the 2010 Order”), which prescribes which officers, within a public authority, have the power to grant authorisations for the carrying out of Directed Surveillance and the grounds, under Section 28(3), upon which authorisations can be granted.

From 1st November 2012, local authority Authorising Officers may not authorise Directed Surveillance unless it is for the purpose of preventing or detecting a criminal offence and it meets the condition set out in New Article 7A(3)(a) or (b) of the 2010 Order. Those conditions are that the criminal offence which is sought to be prevented or detected is punishable, whether on summary conviction or on indictment, by a maximum term of **at least 6 months of imprisonment**, or would constitute an offence under sections 146, 147 or 147A of the Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933. The latter are all offences involving sale of tobacco and alcohol to underage children.

So, what about surveillance being carried out to tackle disorder (e.g. anti-social behaviour)? This can no longer be authorised as Directed Surveillance unless the disorder includes criminal offences satisfying the above criteria.

The second question is: Is the surveillance proportionate to what is sought to be achieved by carrying it out?

Proportionality means ensuring that the surveillance is the least intrusive method to obtain the required information having considered all reasonable alternatives. This requires consideration of not only whether surveillance is appropriate but also the method to be adopted, the duration and the equipment to be used.

The Investigatory Powers Commissioner Office often states in its inspection reports that officers have not properly understood this concept or have not demonstrated compliance within the authorisation form. The Covert Surveillance Code (para 4.7) requires four aspects to be addressed in the authorisation form:

- balancing the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence;
- explaining how and why the methods to be adopted will cause the least possible intrusion on the subject and others;
- considering whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result;
- evidencing, as far as reasonably practicable, what other methods had been considered and why they were not implemented.

The third question is; can we avoid or minimise collateral intrusion?

The Authorising Officer will need to carefully consider the likelihood of collateral intrusion occurring. This is the risk of intrusion into the privacy of persons other than those who are directly the subjects of the investigation or operation. If the risk is significant, measures should be taken, wherever practicable, to avoid or minimise any unnecessary intrusion.

Investigating and Authorising Officers will need to ask themselves:

- What is the impact on third parties? Is it significant?
- If it is, what can be done to avoid or minimise it?
- Have we considered:
 - Changing the timing of the surveillance
 - Reducing the amount of surveillance
 - Changing the method of surveillance
 - The sensitivities of the local community

Surveillance operations by other public authorities - Of course at all times the need to obtain the best evidence to investigate the crime will be paramount.

Next Stage: Once the surveillance has been authorised the next stage is to seek Magistrates' approval. See Section 4 for a detailed explanation of the procedure

APPENDIX III

Guide for authorising officers authorising Covert Human Intelligence Sources

AUTHORISING A CHIS: RULES AND CRITERIA

Section 27 of RIPA provides a powerful defence if covert surveillance is challenged:

*“(1) Conduct to which this Part applies shall be lawful for all purposes if -
(a) an authorisation under this Part confers an entitlement to engage in that conduct on the person whose conduct it is; and
(b) his conduct is in accordance with the authorisation.”*

To take advantage of this defence, the surveillance needs to be properly authorised. S.28 sets out the criteria for authorising Directed Surveillance, whilst S.29 covers CHIS.

The Authorising Officer

The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (SI 2010 N0.521) states that the Authorising Officer for a local authority can be a Director, Head of Service, Service Manager or equivalent.

Where the surveillance involves the likelihood of obtaining confidential information or the deployment of juveniles or vulnerable people, then the authorisation has to be sought from the Head of Paid Service or, in his/her absence, the acting Head of Paid Service. A list of the Council's Authorising Officers is held by the SRO.

If there is any doubt regarding sufficiency of rank you should contact the SRO or Legal Services.

Time Limits

The current time limits for an authorisation are 3 months for Directed Surveillance and 12 months for a CHIS (1 month if the CHIS is underage).

A renewal must be authorised prior to the expiry of the original authorisation, but it runs from the expiry date and time of that original authorisation. Authorisations may be renewed more than once if still considered necessary and proportionate and approved by a Magistrate.

Applications for renewals should not be made until shortly before the original authorisation period is due to expire but local authorities must take account of factors, which may delay the renewal process (e.g. intervening weekends or the availability of the relevant local authority authorising officer and a Magistrate to consider the application).

Authorising Officer's Consideration

S.29 (2) states:

*“A person shall not grant an authorisation for the conduct or the use of a covert human intelligence source unless he believes-
(a) that the authorisation is necessary on grounds falling within subsection (3); (b) that the authorised conduct or use is proportionate to what is sought to be achieved by that conduct or use; and*

(c) that arrangements exist for the source's case that satisfy the requirements of subsection (5) and such other requirements as may be imposed by order made by the Secretary of State. "

Please consult Flowchart 5 when deciding whether the deployment of a CHIS should be authorised.

Three matters are important to consider before authorising the deployment of a CHIS:

1. Necessity

The deployment of a CHIS has to be necessary on one of the grounds set out within in S.29(3). Local authorities can only authorise on the one ground; where it is necessary:

"for the purpose of preventing or detecting crime or of preventing disorder."
(S.29(3)(b))

The matter being investigated must be an identifiable criminal offence or constitute disorder. Unlike Directed Surveillance, the grounds for authorising a CHIS did not change on 1 November 2012.

2. Proportionality

Proportionality means ensuring that the deployment of the CHIS is the least intrusive method to obtain the required information having considered all reasonable alternatives. This requires consideration of not only whether a CHIS is appropriate but also the method to be adopted, the duration and the equipment to be used. The CHIS Code (para 3.6) requires four aspects to be addressed in the authorisation form:

- balancing the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence;
- explaining how and why the methods to be adopted will cause the least possible intrusion on the subject and others;
- whether the conduct to be authorized will have any implications for the private and family life to others, and an explanation of why (if relevant) it is nevertheless proportionate to proceed;
- considering whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the information sought;
- evidencing, as far as reasonably practicable, what other methods had been considered and why they were not implemented, or have been implemented unsuccessfully.

3. Security and Welfare Arrangements

CHISs are often placed in difficult and sometimes dangerous situations e.g. an informant on a housing estate in contact with criminal gangs. Appropriate security and welfare arrangements must also be in place in relation to each CHIS. S.29(5) requires there to be:

- A person who will have day-to-day responsibility for dealing with the CHIS on behalf of that authority, and for his/her security and welfare;
- A person who will have general oversight of the use made of the CHIS. This person must be different to the one above.
- A person who will maintain a record of the use made of the CHIS. This can be any of the above or a separate person.
- Proper and secure records to keep about the use made of the CHIS.

Risk Assessment: An authorisation for the conduct or use of a CHIS may not be granted or renewed in any case where the source is under the age of eighteen at the time of the grant or renewal, unless a risk assessment has been carried out. This must be sufficient to demonstrate that:

- the nature and magnitude of any risk of physical injury to the CHIS arising in the course of, or as a result of, carrying out the conduct described in the authorisation has been identified and evaluated;
- the nature and magnitude of any risk of psychological distress to the CHIS arising in the course of, or as a result of, carrying out the conduct described in the authorisation has been identified and evaluated;
- the person granting or renewing the authorisation has considered the risk assessment and has satisfied himself that any risks identified in it are justified and, if they are, that they have been properly explained to and understood by the CHIS;
- the person granting or renewing the authorisation knows whether the relationship to which the conduct or use would relate is between the CHIS and a relative, guardian or person who has for the time being assumed responsibility for the CHISs welfare, and, if it is, has given particular consideration to whether the authorisation is justified in the light of that fact.

Bolsover District Council

Standards Committee on 2nd September 2024

Delegation of the decision to grant dispensations

Report of the Director of Governance and Legal Services & Monitoring Officer

Classification	This report is public
Report By	Jim Fieldsend Director of Governance and Monitoring Officer

PURPOSE/SUMMARY OF REPORT

For Standards Committee to consider a proposal to delegate the power to grant dispensations for Members to speak and vote in committees when they have a declarable interests.

REPORT DETAILS

1. Background

- 1.1 One of Standard Committee's roles from its terms of reference is to "consider all matters relating to dispensations for Members to speak and vote where Members concerned have interests".
- 1.2 In accordance with the Code of Conduct (copy attached as an Appendix) where a councillor is prevented from participating in a matter in a meeting by virtue of the existence of either a Disclosable Pecuniary Interest, Other Registerable Interest or a Non-Registerable Interest he or she may still take part in the meeting and vote where they have been granted a dispensation.
- 1.3 Part 12 of the Code of Conduct states that the Council may grant a dispensation to enable a councillor to participate and vote on a matter in which he/she has a Disclosable Pecuniary Interest". Requests must be made in writing to the Monitoring Officer on one of the following grounds.
 - That so many members of the decision-making body have Disclosable Pecuniary Interests in a matter that it would impede the transaction of the business.
 - That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the likely outcome of any vote on the matter.
 - That the District Council considers that the dispensation is in the interests of persons living in the Authority's area;
 - That, without a dispensation, no member of the Cabinet would be able to participate in the matter; or

- That the District Council considers that it is otherwise appropriate to grant dispensation.
- 1.4 The dispensation provisions referred to in part 12 of the Code of Conduct refers to situations where a councillor has a Disclosable Pecuniary Interest. There is no corresponding provision for the granting of a dispensation for Other Registerable Interest or a Non-Registerable Interest. In order to clarify that the rules on dispensation apply to all interests it is proposed that the provisions set out in paragraph be changed to include reference to Other Registerable Interests and Non-Declarable Interests
 - 1.5 Any requests for a dispensation must be sent in writing to the Monitoring Officer however there is no ability for the Monitoring Officer to determine whether a dispensation should be granted. It is proposed that the Standards Committee delegate the decision to determine dispensation applications to the Monitoring Officer. This would enable decisions being made in an efficient and timely manner. It is further proposed that Council be recommended to include this power within the Scheme of Delegation for Officers

2. Details of Proposal or Information

- 2.1 The dispensation provisions referred to in paragraph 1.3 above refers to situations where a councillor has a Disclosable Pecuniary Interest. There is no corresponding provision for the granting of a dispensation for Other Registerable Interests or a Non-Registerable Interest. In order to clarify that the rules on dispensation apply to all interests it is proposed that the provisions set out in paragraph 1.3 be changed to include reference to Other Registerable Interests and Non-Declarable Interests
- 2.2 Any requests for a dispensation must be sent in writing to the Monitoring Officer however there is no express ability for the Monitoring Officer to determine whether a dispensation should be granted. It is proposed that the Standards Committee delegate the decision to determine dispensation applications to the Monitoring Officer. This would enable decisions being made in an efficient in timely manner. It is further proposed that Council be recommended to include this power within the Scheme of Delegation for Officer

3. Reasons for Recommendation

- 3.1 To clarify the rules around granting dispensations to councillors where they have a relevant interest in an item to be considered.

4 Alternative Options and Reasons for Rejection

- 4.1 Not to change the rules on granting dispensations. This is rejected as it is necessary to have clarity on when a dispensation can be granted for all interests and not just disclosable pecuniary interests.

RECOMMENDATION(S) that Standard Committee;

1. Approve the addition of Other Registerable Interests and Non-Disclosable Interests to part 12 of the Code of Conduct for Councillors;
2. Delegate the decision to consider applications for dispensations to the Monitoring Officer;
3. Recommend to Council that the Scheme of Delegation to Officers include a power for the Monitoring Officer "To determine all application made by councillors to vote on a matter in which they have a relevant interest in accordance with part 12 of the Code of Conduct for Councillors

IMPLICATIONS:

Finance and Risk: Yes ☐ No ☒

Details:

None arising from this report.

On behalf of the Section 151 Officer

Legal (including Data Protection): Yes ☐ No ☒

Details:

None arising from this report.

On behalf of the Solicitor to the Council

Staffing: Yes ☐ No ☒

Details:

None arising from this report.

On behalf of the Head of Paid Service

DECISION INFORMATION

Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input type="checkbox"/> <input checked="" type="checkbox"/> Please indicate which threshold applies	No
Is the decision subject to Call-In? <i>(Only Key Decisions are subject to Call-In)</i>	No

District Wards Significantly Affected	None
Consultation: Leader / Deputy Leader <input checked="" type="checkbox"/> Executive <input type="checkbox"/> SLT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input checked="" type="checkbox"/>	Details:

Links to Council Ambition: Customers, Economy and Environment.
Demonstrating good governance

DOCUMENT INFORMATION	
Appendix No	Title
1	Draft Code of Conduct

Background Papers
<i>(These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Executive you must provide copies of the background papers).</i>

Bolsover District Council

Code of Conduct for Councillors

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviours and responsibilities associated with the role. Each councillor's individual conduct affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

Introduction

The Local Government Association (LGA) has developed a Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance.

All councils are required to have a local Councillor Code of Conduct.

This is Bolsover's Code of Conduct for Councillors which is based on the LGA Model Councillor Code of Conduct. Bolsover District Council will be referred to as "the District Council" throughout.

Definitions

For the purposes of this Code of Conduct, a "Councillor" means a member or co-opted member of North East Derbyshire District Council. A "co-opted member" is defined in the Localism Act 2011 Section 27(4) as "a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee".

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a Councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow Councillors, Bolsover District Council officers and the reputation of local government. It sets out general principles of conduct expected of all Councillors and your specific obligations in relation to standards of conduct. The use of support, training and mediation from the Monitoring Officer, the LGA and elsewhere is encouraged prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of Councillor and local government.

General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles. These are in Appendix A to this Code. This Code should be read in conjunction with these principles.

Building on these principles, the following general principles have been developed specifically for the role of Councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of Councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a Councillor.

This Code of Conduct applies to you when you are acting in your capacity as a Councillor which may include when:

- You misuse your position as a Councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a Councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a Councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the

Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

Standards of Councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a Councillor. Should your conduct fall short of these standards, a complaint may be made to the Monitoring Officer against you. This may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. Respect

As a Councillor:

1.1 I treat other Councillors and members of the public with respect.

1.2 I treat District Council employees, employees and representatives of partner organisations and those volunteering for the District Council with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening, you are entitled to stop any conversation or interaction in person or online and report them to the District Council, the relevant social media provider or the Police. This also applies to fellow Councillors, where action could then be taken under the Councillor Code of Conduct, and District Council employees, where concerns should be raised with the District Council's Head of Paid Service in line with the District Council's Protocol for Councillor – officer relations which is in the District Council's Constitution and other employee policies.

2. Bullying, harassment and discrimination

As a Councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 I promote equalities and do not discriminate unlawfully against any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the District Council's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of officers of the District Council

As a Councillor:

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the District Council.

Officers work for the District Council as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Confidentiality and access to information

As a Councillor:

4.1 I do not disclose information:

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
 - i. I have received the consent of a person authorised to give it;**
 - ii. I am required by law to do so;**
 - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
 - iv. the disclosure is:**
 - 1. reasonable and in the public interest; and**
 - 2. made in good faith and in compliance with the reasonable requirements of the District Council; and**
 - 3. I have consulted the Monitoring Officer prior to its release.**

4.2 I do not improperly use knowledge gained solely as a result of my role as a Councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

Local authorities including the District Council must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. Councillors should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the District Council must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute

As a Councillor:

5.1 I do not bring my role or the District Council into disrepute.

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other Councillors and/or the District Council and may lower the public's confidence in you or the District Council's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring the District Council into disrepute.

You are able to hold the District Council and fellow Councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the District Council whilst continuing to adhere to other aspects of this Code of Conduct.

6. Use of position

As a Councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the District Council provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. Use of District Council's resources and facilities

As a Councillor:

7.1 I do not misuse District Council resources.

7.2 I will, when using the resources of the District Council or authorising their use by others:

- a. act in accordance with the District Council's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the District Council or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the District Council to assist you in carrying out your duties as a councillor.

Examples include:

- Office support
- Laptop and/or Ipad or other technology
- Stationery
- Transport
- Access to and use of District Council buildings and rooms.

These are given to you to help you carry out your role as a Councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the District Council's own policies regarding their use.

8. Complying with the Code of Conduct

As a Councillor:

8.1 I will undertake Code of Conduct training provided by the District Council.

8.2 I cooperate with any Code of Conduct investigation and/or determination.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a Councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the District Council or its governance. If you do not understand or are concerned about the District Council's processes in handling a complaint you should raise this with the Monitoring Officer.

Protecting your reputation and the reputation of the District Council

9. Interests

As a Councillor:

9.1 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the District Council.

You need to register your interests so that the public, District Council employees and fellow Councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other Councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest (dpi) as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

10. Gifts and hospitality

As a Councillor:

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the District Council or from persons who may apply to the District Council for any permission, licence or other significant advantage.
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least ~~£50~~£25 and where appropriate any with a value less than ~~£50~~£25 within 28 days of its receipt.
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.

In order to protect your position and the reputation of the District Council, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a Councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a Councillor. If you are unsure, contact your Monitoring Officer for guidance.

11 Training

You must attend the Mandatory training set out in **Appendix C** and any other training the Council may deem is required from time to time.

You must attend the training detailed above as soon as reasonably practicable:

- (a) after your election; and
- (b) after your re-election;
- (c) after your appointment to a relevant Committee or Sub-Committee; and (
- d) as required after changes in legislation, policy or procedure affecting the relevant Committee or Sub-Committee outlined above; and/or
- e) as frequently as set out in Appendix C

You must attend training if you are instructed to do so by a Standards Hearing Sub-Committee. If you fail to do so after 3 months or having been offered training on two

occasions the fact of your failure will be reported to the Committee.

12 Dispensations

The District Council may grant you a dispensation to enable you to participate and vote on a matter in which you have a Disclosable Pecuniary Interest.

Requests for dispensation must be made, in writing to the Monitoring Officer, on one of the following grounds:

- That so many members of the decision-making body have disclosable pecuniary interests in a matter that it would impede the transaction of the business.
- That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the likely outcome of any vote on the matter.
- That the District Council considers that the dispensation is in the interests of persons living in the Authority's area;
- That, without a dispensation, no member of the Cabinet would be able to participate in the matter; or
- That the District Council considers that it is otherwise appropriate to grant dispensation.

13 Pre determination or bias

Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life you should not be prohibited from participating in a decision in your political role as Member. However **do not** place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

When making a decision, **do** consider the matter with an open mind and on the contents before the meeting at which the decision is to be taken. When reaching decisions on any matter you must have regard to any relevant advice provided to you by:

- (a) the Head of Paid Service
- (b) the Chief Finance Officer; or
- (c) the Monitoring Officer,

where that officer is acting pursuant to his or her statutory duties. ~~Members Interests~~
~~As a public figure, your pub~~

Appendices

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office as a District Councillor you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

"Disclosable Pecuniary Interest" (DPI) means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is an interest which, if disclosed, could lead to the Councillor, or a person connected with the Councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees, they will withhold the interest from the public register.

Non participation in case of Disclosable Pecuniary Interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the Chamber or room where the meeting is being held unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a Disclosable Pecuniary Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the

public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
 - a. your own financial interest or well-being;
 - b. a financial interest or well-being of a relative or close associate; or
 - c. a financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:
 - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
 - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. [Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the
	councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land and Property	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.

Licenses	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
Corporate tenancies	Any tenancy where (to the councillor's knowledge)— (a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
Securities	Any beneficial interest in securities* of a body where— (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either— (i)) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were

* 'director' includes a member of the committee of management of an industrial and provident society.

* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Table 2: Other Registrable Interests

You must register as an Other Registerable Interest:

a) any unpaid directorships

b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority

c) any body

(i) exercising functions of a public nature

(ii) directed to charitable purposes or

(iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

Of which you are a member of in a position of general control of management

Appendix C

Mandatory Training

<u>Training</u>	<u>Scope</u>	<u>Frequency</u>
<u>Planning Committee</u>	<u>Planning legislation and case law. Local Plan policies. Procedures. Role on Planning Committee.</u> <u>Role of a Member of Local Planning Authority</u> <u>Planning Code of Good Practice</u> <u>Relationship to Members' Code of Conduct</u> <u>Development proposals and Interests under Members' Code of Conduct</u> <u>Fettering Discretion in the Planning Process</u> <u>Lobbying of and by Councillors</u> <u>Contact with applicants, developers and objectors</u> <u>Role of Officers</u> <u>Decision Making</u> <u>Public Speaking at Meetings</u> <u>Site Visits</u> <u>How to determine Planning Applications</u>	<u>Prior to sitting on Planning Committee minimum of every two years. Refresher training may be given more frequently.</u>

<u>Code of Conduct / Ethical Governance</u>	<u>Understanding of the Members' Code of Conduct and the governance of the Council.</u> <u>Responsibilities and role as a Councillor.</u> <u>Outline of Constitution</u> <u>Promoting and maintaining high standards of conduct by Members</u> <u>Code of Conduct (including Gifts and Hospitality)</u> <u>The Register of Interests</u> <u>Protocols</u> <u>Guidance</u> <u>Dispensations</u> <u>Political Publicity – rules</u> <u>Data Protection</u> <u>Freedom of Information</u>	<u>At the point of election and on subsequent re-election(s), or at the mid term point.</u>
<u>Equalities and Diversity</u>	<u>To tackle discrimination and social exclusion, promote equality of opportunity and foster good relations between all.</u>	<u>After each election</u>
<u>Safeguarding</u>	<u>To provide guidance and advice to elected Members on;</u> <u>Roles and responsibilities in relation to safeguarding children and vulnerable adults and</u> <u>How Members should raise any concerns and receive assurance about children and adults who may be at risk</u>	<u>Every 2 years.</u>

<u>Lone Worker</u>	<u>Ensuring Members keep themselves safe</u>	<u>After election or re-election.</u> <u>Refresher (online) annually.</u>
<u>Fraud Awareness</u>	<u>To raise awareness of where fraud may occur in District Councils and what actions should be taken.</u>	<u>After each election and bi-annually thereafter</u>
<u>Chairperson (if appointed as a Chair)</u>	<u>To ensure that Members appointed to Chairmanships have the required knowledge, skills and attributes needed to become an effective Chairman.</u>	<u>Following initial appointment to position and subject to previous training or experience.</u>
<u>Audit & Corporate Overview Scrutiny Committee</u>	<u>Understanding of Local Government Finances</u> <u>Legislation, case law, policies and procedures relevant to the remit of the Committee and its Sub-Committees</u>	<u>Prior to sitting on the Committee or its Sub-Committees minimum of every four years.</u>

BDC COMPLAINTS MADE AGAINST Agenda Item 7
COMPLAINTS RECEIVED 2024/2025

DATE OF RECEIPT	PART OF CODE OF CONDUCT ALLEGED TO HAVE BEEN BREACHED	NAME OF COUNCIL	WHETHER A POTENTIAL BREACH WAS FOUND	REASONS FOR DECISION/ ACTION
13/05	Respect	Scarcliffe Parish Council	N/A (ongoing)	
24/06	Respect	Bolsover Disitrc Council	N/A (ongoing)	
11/07	Breach of confidentiality	South Normanton Parish Council	No	Lack of evidence
17/08	Breach of confidentiality	Tibshelf Parish Council	No	Councillor not working in capacity

Bolsover District Council

Meeting of the Standards Committee on Monday 2nd September 2024

Annual Letter from the Local Government & Social Care Ombudsman 2023/24

Report of the Portfolio Holder for Corporate Performance & Governance

Classification	This report is Public
Contact Officer	Lesley Botham Customer Service, Standards & Complaints Manager

PURPOSE/SUMMARY OF REPORT

To provide members with information contained within the Annual Letter from the Local Government & Social Care Ombudsman (LGSCO) 2023/24.

REPORT DETAILS

1. Background

- 1.1 The Annual Letter from the Local Government and Social Care Ombudsman (LGSCO) contains an annual summary of statistics on the complaints made against the Council for the financial year ending 31st March 2024. It should be noted that the data provided by the LGSCO may not align with the data this Council holds. This is because their numbers include enquiries from people who have been signposted by the LGSCO back to the Council, but who may then choose not to pursue their complaint.
- 1.2 The LGSCO received 8 enquiries and complaints during 2023/24, 3 were closed after initial enquiries, 3 referred back for local resolution/internal complaints process 1 case was invalid or incomplete. (1 decision received May 24 – closed after initial enquiries).

- 1.3 The Annual Letter 2024 (Appendix 1) and supporting information is attached.

Benchmarking information – (CIPFA) Nearest Neighbour

When looking at close neighbouring authorities, the following is noted:

By way of background information, the LGSCO upheld 80% of complaints submitted to them in 2023/24 (up from 74% in 2022/23) with the average being 63% for similar authorities.

	Detailed investigations	Upheld complaints (average for similar authorities - 63%)	Compliance rate	Satisfactory remedy before complaint reached the Ombudsman
Ashfield District Council	2	1 (50%)	No recommendations were due for compliance in this period	1
Bassetlaw District Council	2	1 (50%)	100%	0
Bolsover District Council	0	0	No recommendations were due for compliance in this period	0
Chesterfield Borough Council	2	1 (50%)	100%	0
Erewash District Council	0	0	No recommendations were due for compliance in this period	0
Mansfield District Council	2	2 (100%)	100%	0
NE Derbyshire District Council	4	3 (75%)	100%	0

2. Details of Proposal or Information

- 2.1 N/A – all information contained within section 1 of the report.

3. Reasons for Recommendation

- 3.1 To note the overall performance and receive the report and the Annual Letter from the Local Government & Social Care Ombudsman 2023/24.

4 **Alternative Options and Reasons for Rejection**

4.1 None.

RECOMMENDATION(S)

1. That Standards Committee note the Annual Letter from the Local Government & Social Care Ombudsman 2023/24.

Approved by Councillor Duncan McGregor, Portfolio Holder for Corporate
Performance & Governance

IMPLICATIONS:

Finance and Risk: Yes ☐ No ☒

Details: Whilst there are no direct financial implications with regard to the report, the Council is at risk of recommendations or decisions by the Local Government and Social Care Ombudsman if complaints are not handled appropriately. In cases of maladministration, financial penalties can be imposed by the Ombudsman.

On behalf of the Section 151 Officer

Legal (including Data Protection): Yes ☐ No ☒

Details: The Council is at risk of recommendations or decisions by the Local Government Ombudsman and Social Care Ombudsman and, in the case of complaints about Freedom of Information, Data Protection and Environmental Information requests, the Information Commissioner's Office can issue decision notices and impose significant fines. There are no Data Protection implications.

On behalf of the Solicitor to the Council

Environment: Yes ☐ No ☒

Details: There are no areas contained within this report.

On behalf of the climate change lead Officer

Staffing: Yes ☐ No ☒

Details: There are no staffing implications contained within this report.

On behalf of the Head of Paid Service

DECISION INFORMATION

Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards, or which results in income or expenditure to the Council above the following thresholds: Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
Is the decision subject to Call-In? <i>(Only Key Decisions are subject to Call-In)</i>	No

District Wards Significantly Affected	All
Consultation: Leader / Deputy Leader <input checked="" type="checkbox"/> Executive <input type="checkbox"/> SLT <input checked="" type="checkbox"/> Relevant Service Manager <input checked="" type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/>	Details:

Links to Council Ambition: Customers, Economy, and Environment.
Increasing customer satisfaction with our services Improving customer contact and removing barriers to accessing information Actively engaging with partners to benefit our customers Promoting equality and diversity and supporting vulnerable and disadvantaged people

DOCUMENT INFORMATION	
Appendix No	Title
1:	Annual Letter from the Local Government & Social Care Ombudsman 2023/24
2:	Excel workbook: Complaints Received Complaints Decided Compliance

Background Papers
<i>These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Executive you must provide copies of the background papers).</i>
None

17 July 2024

By email

Ms Hanson
Head of Paid Service
Bolsover District Council

Dear Ms Hanson

Annual Review letter 2023-24

I write to you with your annual summary of complaint statistics from the Local Government and Social Care Ombudsman for the year ending 31 March 2024. The information offers valuable insight about your organisation's approach to complaints, and I know you will consider it as part of your corporate governance processes. As such, I have sought to share this letter with the Leader of your Council and Chair of the appropriate Scrutiny Committee, to ensure effective ownership and oversight of complaint outcomes, which offer valuable opportunities to learn and improve. In addition, this year, we have encouraged Monitoring Officers to register to receive the letter directly, supporting their role to report the decisions we uphold to their council.

For most of the reporting year, Paul Najsarek steered the organisation during his tenure as interim Ombudsman, and I was delighted to take up the role of Ombudsman in February 2024. I look forward to working with you and colleagues across the local government sector to ensure we continue to harness the value of individual complaints and drive and promote systemic change and improvement across the local government landscape.

While I know this ambition will align with your own, I am aware of the difficult financial circumstances and service demands that make continuous improvement a challenging focus for the sector. However, we will continue to hold organisations to account through our investigations and recommend proportionate actions to remedy injustice. Despite the challenges, I have great confidence that you recognise the valuable contribution and insight complaints, and their swift resolution, offer to improve services for the public.

Complaint statistics

Our statistics focus on three key areas that help to assess your organisation's commitment to putting things right when they go wrong:

Complaints upheld - We uphold complaints when we find fault in an organisation's actions, including where the organisation accepted fault before we investigated. We include the total number of investigations completed to provide important context for the statistic. This year, we also provide the number of upheld complaints per 100,000 population.

Compliance with recommendations - We recommend ways for organisations to put things right when faults have caused injustice and monitor their compliance with our recommendations. Failure to comply is rare and a compliance rate below 100% is a cause for concern.

Satisfactory remedy provided by the authority - In these cases, the organisation upheld the complaint and we agreed with how it offered to put things right. We encourage the early resolution of complaints and give credit to organisations that accept fault and find appropriate ways to put things right.

Finally, we compare the three key annual statistics for your organisation with similar authorities to provide an average marker of performance. We do this for County Councils, District Councils, Metropolitan Boroughs, Unitary Councils, and London Boroughs.

Your annual data, and a copy of this letter, will be uploaded to our interactive map, [Your council's performance](#), on 24 July 2024. This useful tool places all our data and information about councils in one place. You can find the detail of the decisions we have made about your Council, read the public reports we have issued, and view the service improvements your Council has agreed to make as a result of our investigations, as well as previous annual review letters.

Supporting complaint and service improvement

In February, following a period of consultation, we launched the [Complaint Handling Code](#) for councils, setting out a clear process for responding to complaints effectively and fairly. It is aligned with the Code issued to housing authorities and landlords by the Housing Ombudsman Service and we encourage you to adopt the Code without undue delay. Twenty councils have volunteered to take part in an implementation pilot over the next two years that will develop further guidance and best practice.

The Code is issued to councils under our powers to provide guidance about good administrative practice. We expect councils to carefully consider the Code when developing policies and procedures and will begin considering it as part of our processes from April 2026 at the earliest.

The Code is considered good practice for all organisations we investigate (except where there are statutory complaint handling processes in place), and we may decide to issue it as guidance to other organisations in future.

Our successful complaint handling training programme continues to develop with new modules in Adult Social Care and Children's Services complaint handling available soon. All our courses include practical interactive workshops that help participants develop their complaint handling skills. We delivered 126 online workshops during the year, reaching more than 1,700 people. To find out more visit www.lgo.org.uk/training or get in touch at training@lgo.org.uk.

Returning to the theme of continuous improvement, we recognise the importance of reflecting on our own performance. With that in mind I encourage you to share your view of our organisation via this survey: <https://www.smartsurvey.co.uk/s/ombudsman/>. Your responses will help us to assess our impact and improve our offer to you. We want to gather a range of views and welcome multiple responses from organisations, so please do share the link with relevant colleagues.

Yours sincerely,



Amerdeep Somal
Local Government and Social Care Ombudsman
Chair, Commission for Local Administration in England

Complaints upheld
The Ombudsman carried out no investigations in this period
Compliance with Ombudsman recommendations
No recommendations were due for compliance in this period
Satisfactory remedy provided by the organisation
The Ombudsman did not uphold any complaints in this period

Received

Reference	Authority	Category	Received
23005737	Bolsover District Council	Planning & Development	24/07/23
23006337	Bolsover District Council	Housing	02/08/23
23011074	Bolsover District Council	Housing	26/10/23
23011372	Bolsover District Council	Benefits & Tax	26/10/23
23011551	Bolsover District Council	Corporate & Other Services	29/10/23
23017794	Bolsover District Council	Housing	19/02/24
23019048	Bolsover District Council	Corporate & Other Services	26/02/24
23020164	Bolsover District Council	Housing	15/03/24

Decided

Decided	Decision	Decision Reason	Remedy	Service improvement recommendations
17/08/23	Closed after initial enquiries	Not warranted by alleged fault		
02/08/23	Referred back for local resolution	Premature Decision - advice given		
26/10/23	Referred back for local resolution	Premature Decision - advice given		
26/10/23	Referred back for local resolution	Premature Decision - advice given		
08/11/23	Closed after initial enquiries	Not warranted by alleged injustice		
27/03/24	Closed after initial enquiries	Sch 5.5A/5.5B Social housing landlord		
15/03/24	Incomplete/Invalid	Insufficient information to proceed and PA advised		

Compliance

No compliance data recorded during the period.

Notes

Explanatory notes

Cases received

Cases with a recorded received date between 1 April 2023 and 31 March 2024. Status as of 9 April 2024.


Cases decided

Cases with a recorded decision date between 1 April 2023 and 31 March 2024. Status as of 9 April 2024. Some cases may have been reopened since that date, with either a decision outcome pending or a new decision outcome recorded.

We report our decisions by the following outcomes:

Invalid or incomplete: We were not given enough information to consider the issue.

Advice given: We provided early advice or explained where to go for the right help.

 **Referred back for local resolution:** We found the complaint was brought to us too early because the organisation involved was not given the chance to consider it first.

Closed after initial enquiries: We assessed the complaint but decided against completing an investigation. This might be because the law says we're not allowed to investigate it, or because it would not be an effective use of public funds if we did.

Upheld: We completed an investigation and found evidence of fault, or we found the organisation accepted fault early on.

Not upheld: We completed an investigation but did not find evidence of fault.

Compliance outcomes

Cases with a recorded remedy achieved date between 1 April 2023 and 31 March 2024. Status as of 15 May 2024. The relevant date is the date of compliance with the recommendations (for example, the date on an apology letter) rather than the date the evidence is provided to us. If we were notified after 15 May 2024 of a remedy achieved before 31 March 2024, this will not be included here.

Some cases may be marked as 'Remedy completed late' even when the remedy achieved date is before the remedy target date. This happens because the target date covers all remedies (service improvements and personal remedies). As service improvements often have a longer timescale for completion, we will mark a case as 'completed late' where this longer timescale is met, but the personal remedy was provided late.

Bolsover District Council Standards Committee Work Programme.

From September 2nd 2024 to 31st March 2025

Date of Committee.	Item.
2 nd September 2024	<ul style="list-style-type: none"> ▪ Review of Constitution- Dispensations ▪ RIPA Policy Review ▪ LGSCO Annual Letter and Report; ▪ Complaints update.
4 th November 2024	<ul style="list-style-type: none"> ▪ Review of Constitution (TBD); ▪ Compliments Comments and Complaints Annual Summary ▪ Complaints update.
27 th January 2025	<ul style="list-style-type: none"> ▪ Review of Constitution (TBD); ▪ Gifts and Hospitality Review; ▪ Whistleblowing Policy Review; ▪ RIPA Review; ▪ Complaints update.
31/03/25 2024	<ul style="list-style-type: none"> ▪ Review of Constitution (TBD); ▪ Members Training Attendance; ▪ Annual Standards Committee Report ▪ Complaints update.