

POLICY SCRUTINY COMMITTEE

Tuesday, 11 January 2022

6.00 pm

**Committee Rooms 1-2, City
Hall**

Membership: Councillors Bill Bilton (Chair), Calum Watt (Vice-Chair),
Liz Bushell, Jane Loffhagen, Bill Mara, Mark Storer and
Pat Vaughan

Substitute member(s): Councillors Gary Hewson

Officers attending: Democratic Services, Kate Bell and Becky Scott

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Please note that, in accordance with the Members' Code of Conduct, when declaring interests members must disclose the existence and nature of the interest, and whether it is a disclosable pecuniary interest (DPI) or personal and/or pecuniary.	
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Present: Councillor Bill Bilton (*in the Chair*),
Councillor Calum Watt, Councillor Liz Bushell, Councillor
Bill Mara, Councillor Alan Briggs and Councillor
Rebecca Longbottom

Apologies for Absence: Councillor Jane Loffhagen, Councillor Mark Storer and
Councillor Pat Vaughan

20. Confirmation of Minutes - 5 October 2021

RESOLVED that the minutes of the meeting held on 5 October 2021 be confirmed.

21. Declarations of Interest

No declarations of interest were received.

22. Localised Council Tax Support Scheme 2022/23

Martin Walmsley, Head of Shared Revenues and Benefits

- a. presented the proposed scheme for Local Council Tax Support for the financial year 2022/23, as part of the formal consultation period, as well as regarding proposals made in relation to an Exceptional Hardship Payments Scheme.
- b. gave the background to the scheme as detailed at paragraph 2 of the report and advised that there were currently 8870 residents claiming Council Tax Support in Lincoln.
- c. advised that there were 2,704 pensioners in receipt of Council Tax Support and they were protected under the legislation so that they would not be affected by any changes made to the Council Tax Support Scheme.
- d. further advised that there were 6166 working claimants who would be affected by any changes made to the scheme, and such any potential reduction in support being provided. Unless a decision by the Council was made to apply scheme changes to vulnerable working-age customers, the localised Council Tax Scheme.
- e. highlighted the impacts of Covid-19 on the amount of Council Tax Scheme awarded, with significant increases in caseload and cost of the scheme as detailed at paragraph 3 of the report.
- f. referred to paragraph 4 of the report and gave an overview of the current Council Tax Support Scheme.
- g. advised that based on the current core elements of the existing scheme, caseload increases of 0% and 5% had been modelled, along with Council Tax increases of 1.9% and 2.5%. These were summarised in Appendix 1 of the report which gave an indication of the potential cost and savings to

the City of Lincoln. Also included was the potential value for non-collection (based on projected collection in the tax base of 98.75%)

- h. explained that as a billing authority the Council could decide whether or not to amend core elements of its Council Tax Support scheme each year. Officers were proposing options for consultation to change certain core elements of the scheme which were summarised at Appendix 1 of the report.
- i. referred to paragraph 5.3 and 5.4 of the report and explained the technical amendments and assumptions that had been made in developing the modelling for each Council Tax Support Scheme.
- j. explained option 2 the 'All Working Age' Banded scheme as detailed at paragraph 5.6 of the report and advised that it was an option put forward and would make a fundamental change to the way that the Council Tax Support Scheme was calculated for all working-age customers.
- k. referred to paragraph 5.7 of the report and explained the 'De Minimis' Scheme which was put forward as option 3.
- l. referred to paragraph 5.8 of the report which detailed the Exceptional Hardship Payments Scheme and proposed that the Exceptional Hardship Budget be increased from £20,000 to £25,000 for 2022/23.
- m. asked for committee's consideration and comments as part of the formal consultation process.

Members discussed the Exceptional Hardship Scheme and supported the proposed increase in budget to £25K which they felt was reasonable considering the current circumstances.

The committee discussed in detail the options proposed and were minded to support option 2 which was the "All Working Age" banded scheme. It was felt that this option would be the best option for residents and would also be more streamlined for the Council to administer. Members questioned how many residents would 'lose out' in the scheme and requested information on which band would be affected by this. Martin Walmsley, Head of Shared Revenues and Benefits responded that the scheme would be continued to be modelled based on the case load, to reduce the number of 'losers' as much as possible. The information on the affected band would be circulated to members following the meeting and be included within the Executive report.

RESOLVED that

- 1. option 2 "All Working Age" Banded Scheme, as set out in paragraph 5.6 of the report be supported.
- 2. the proposed increase of the £5,000 to £25,000, in the Exceptional Hardship fund for 2022/23 to top up Council Tax support awards in appropriate cases be supported.

23. Draft City of Lincoln Council Decarbonisation Strategy and Action Plan Report

Kate Bell, Climate Change Manager

- a. presented the City of Lincoln Council's Decarbonisation Strategy and Action plan for consideration prior to referral to Executive for approval.
- b. advised that full Council had passed a motion to Declare a Climate and Environmental Emergency which resolved to deliver a carbon neutral vision for Lincoln by 2030.
- c. referred to a draft copy of the Decarbonisation Plan at Appendix 1 of the report and advised that the plan set out how the council intended to achieve net zero carbon for its own operations and services and contribute towards Lincoln's area wide carbon neutral ambitions.
- d. explained that the basis of the draft Decarbonisation Plan was to provide a comprehensive assessment of the carbon impact of the Councils own operations which included a calculation of our carbon footprint and an action plan.
- e. advised that the plan identified eight decarbonisation pathways which included Carbon data where available and identified key challenges and opportunities for each pathway towards a net zero carbon target by 2030.
- f. advised that the plan would need to be reviewed and updated annually to reflect emerging knowledge and understanding to ensure the council achieved a net zero carbon target by 2030.
- g. invited committee's questions and comments.

Question: Referred to the decarbonising of Lincoln Central Market and asked if officers were confident that net zero carbon would be achieved.

Response: A full plan had been put in place and an application for funding had been submitted. The gas had been removed and the building had been insulated, also the majority of the electricity used would be renewable.

Question: Asked if there were plans to decarbonise City Hall.

Response: There were detailed feasibility works planned as part of a larger piece of work regarding how the building would be used in the future.

Question: Referred to the Action Plan at Appendix 1 of the report and asked when the "Reuse and Recycle all IT waste" would be completed.

Response: Further information was required from IT. The action plan was a working document and would be updated regularly.

Question: Asked if there would be more trees planted in Lincoln.

Response: There was funding available for trees, the City Council were working with Lincolnshire County Council to identify suitable locations. The tree coverage in Lincoln City was significantly higher than some rural areas and therefore it was about managing and maintaining the current tree coverage in the City. A tree strategy would be produced in future.

RESOLVED that the Decarbonisation Strategy and Action Plan be supported and referred to Executive for consideration.

24. Resident Engagement, Building Safety

Chris Morton, Resident Involvement Manager

- a. presented to Policy Scrutiny Committee the draft Resident Engagement Strategy for building safety for comments prior to referral to Executive.
- b. gave the background to the Strategy as detailed at paragraph 2 of the report and advised that following the Grenfell tragedy in 2017 the government launched a review to improve building safety in Higher Risk Residential Buildings.
- c. advised that the Resident Engagement Strategy for Lincoln had been developed in consultation with elected members, staff and the Lincoln Tenants Panel. It was also in line with the best practise from the housing sector.
- d. explained that the strategy set out the Council's approach to engaging with residents and had three main strands:
 - Information and understanding
 - Resident and landlords' responsibilities
 - Action to take in the event of a fire
- e. referred to the Action Plan at Appendix 2 of the report and advised that to deliver the Engagement Strategy the Council would need to meet all of the actions contained within the action plan.
- f. invited committee's questions and comments

Question: Referred to the Building Safety Bill and asked if the strategy had been written prior to the legislation being passed.

Response: The Strategy had been written based on the best practice that had been received. The Strategy and Action Plan could be amended if necessary once the legislation was passed.

Question: Referred to the Action Plan at Appendix 1 of the report and asked if the Building Safety Manager was a new role that would be appointed to or if it was covered by existing posts.

Response: A response would be circulated following the meeting.

The Chair commented that it was important to have someone who was responsible for the Action Plan and requested that Executive provide resources as necessary to support this.

RESOLVED that the Resident Engagement Strategy for building safety be supported and referred to Executive for approval.

25. Health Scrutiny Update

The Chair of Policy Scrutiny Committee updated members of the business that had been discussed at the Health Scrutiny meeting held on 13 October 2021, these were:

- Lincolnshire Acute Services Review
- General Practice Access
- Lincolnshire Clinical Commissioning Group – Support for General Practice

He further advised that he had raised the question regarding the significant disparities in the health of people living in different wards in Lincoln and had received a response from Public Health who felt that they were doing all they could to address the issue. The City of Lincoln Council was currently gathering and reviewing data which would be used to develop an action plan to address this issue and would be brought to a future committee.

RESOLVED that the report be noted.

26. Policy Scrutiny Work Programme 2021-22 and Executive Work Programme Update

The Democratic Services Officer:

- a. presented the report 'Policy Scrutiny Work Programme 21-22 and Executive Work Programme Update'.
- b. presented the Executive Work Programme November 2021 – October 2022.
- c. requested councillors to submit items they wished to scrutinise from the Executive Work Programme and policies of interest.
- d. invited members questions and comments.

Members made no further comments or suggestions regarding the Policy Scrutiny work programme.

RESOLVED that:

1. the work Policy Scrutiny work programme be noted.
2. the Executive work programme be noted.

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SUBJECT: DRAFT AFFORDABLE WARMTH STRATEGY

DIRECTORATE: DIRECTORATE OF MAJOR DEVELOPMENTS

REPORT AUTHOR: KATE BELL, CLIMATE CHANGE MANAGER

1. Purpose of Report

- 1.1 The purpose of this report is to request that the Policy Scrutiny Committee consider and comment on the draft Affordable Warmth Strategy and refer to the Executive for approval.

2 Background

- 2.1 The Council adopted the last Affordable Warmth Strategy in 2009 which set out a plan for reducing the negative impact of fuel poverty on the City. The Strategy was in place until 2016 and since then the Council's affordable warmth and fuel poverty agenda has not been reviewed or updated in line with more recent Government and CoLC policies.
- 2.2 Since 2016 the Council have continued to engage with the Home Energy in Lincolnshire Partnership (HELP) which has more recently merged with North Lincolnshire and North East Lincolnshire Councils to form the Greater Lincolnshire Energy efficiency Network (GLEEN)
- 2.3 Since 2019 GLEEN created a Project Officer post to manage the Lincs 4 Warmer Homes (L4WH) scheme support residents in Greater Lincolnshire to access ECO3 and Warm Homes funding and appoint accredited energy efficiency installers on behalf of the residents to undertake the work.
- 2.4 To date the L4WH scheme has engaged with 119 households in Lincoln, 32 in relation to ECO3 funding and 20 for the Warm Homes Fund. 23 households were able to benefit from ECO3 funding to support energy efficiency improvements to their home. Only 7 households were identified as suitable for Warm Homes Funding, of which 1 gas heating installation has been completed and 4 are due to have gas heating installations completed by February 2022.
- 2.5 The Warm Homes Fund and Project Officer post is due to come to an end in March 2022. At the moment there are no confirmed plans in place to extend the L4WH scheme in 22/23. However discussions are underway between Local Authorities to work collaboratively to deliver the Sustainable Warmth Programme where possible.
- 2.6 In August 2020, Government announced £2b Green Homes Grant with the purpose of stimulating a green recovery through investment into the UK energy efficiency and low carbon sectors, significantly reducing CO2 emissions from housing to mitigate climate change as well as reducing instances of fuel poverty.
- 2.7 In February 2021 the Government published the Sustainable Warmth Strategy¹ which outlines Government support for vulnerable households in England. The Strategy sets out its ambition to work towards all homes having a minimum Energy Performance Certificate (EPC) band C rating by 2030.

¹ [Sustainable Warmth – Protecting Vulnerable Households in England.](#)

2.8 In May 2021 the City Council, as part of a consortium bid with the Midlands Energy hub were allocated £479,600 capital funding to retrofit up to 40 energy inefficient homes in Lincoln during 2021/22.

2.9 In October 2021 the City of Lincoln Council were awarded £2,203,194 direct from BEIS and £545 500 from the Midlands Energy Hub to deliver the Sustainable Warmth Programme in 2022/23. The Council is currently liaising with North Kesteven District council and West Lindsey District Council to consider opportunities to jointly manage the scheme across central Lincolnshire.

3 Affordable Warmth Strategy

3.1 A new and updated Affordable Warmth Strategy for Lincoln is necessary following the recent changes in national, regional and local policies to address fuel poverty.

3.2 The draft Affordable Warmth strategy brings together the success of our partnership approach to ensure that all sectors are working together to tackle fuel poverty effectively. The strategy reflects the objective of the Council's Housing Strategy 2021 – 2026 to improve housing standards for all and contributes to the Council's ongoing work to achieve a net zero carbon target by 2030.

3.3 Key objectives of the Lincoln Affordable Warmth Strategy 2021 - 2026:

- To reduce the number of Lincoln residents that are in fuel poverty, targeting those with the highest fuel poverty gap.
- To improve our processes for identifying residents who are in fuel poverty or at risk of ill health due to a cold home.
- To increase the number of homes in Lincoln with domestic energy efficiency ratings of C, one of the key ways in which the City can tackle the Climate Emergency.

3.4 A key challenge highlighted by the strategy is the recent increase in the level of fuel poverty in Lincoln. The latest available data for Lincoln shows that the City has the second highest level of fuel poverty of all districts in Lincolnshire. In 2019 the total estimated number of households meeting the government's fuel poverty criteria was 6568. The implications of the Covid Pandemic and the significant rise in global, wholesale gas prices are likely to have pushed more households in Lincoln into fuel poverty.

3.5 The Strategy sets out the following priorities to deliver affordable warmth over the next 5 years:-

- Raise Awareness of Affordable Warmth.
- Improving the Energy Efficiency of All Housing in Lincoln.
- Deliver a Co-ordinated approach to Affordable Warmth.

3.6 **The Affordable Warmth Strategy can be viewed in appendix 1** and sets out what the City of Lincoln Council will do to help lift residents out of fuel poverty and overcome the health effects of cold, damp, draughty living conditions. It also explains what action the Council will take to improve collaboration and co-ordination among the wide variety of organisations that are working to tackle fuel poverty.

4 Corporate Strategic Priorities

4.1 **Let's address the challenge of climate change**

The priorities and actions in the draft Affordable warmth Strategy contribute towards the Council's commitments to reach a net zero carbon target by 2030.

4.2 Let's deliver quality housing

The priorities and actions in the draft Affordable Warmth Strategy contribute towards the Quality Housing objective 'Let's Improve housing standards for all.'

4.3 Let's reduce all kinds of inequality

The priorities and actions in the draft Affordable Warmth Strategy contribute towards the Inequality objective 'Let's provide help to the most vulnerable in our city.'

5. Organisational Impacts

5.1 Finance

The Affordable Warmth Strategy has no direct financial implications. Subject to the strategy being approved, delivery of actions will be funded under existing budgets or through external funding.

5.2 Legal Implications including Procurement Rules

The Affordable Warmth Strategy has no legal implications

5.3 Equality, Diversity and Human Rights

The Public Sector Equality Duty means that the Council must consider all individuals when carrying out their day-to-day work, in shaping policy, delivering services and in relation to their own employees. It requires that public bodies have due regard to the need to:

- Eliminate discrimination
- Advance equality of opportunity
- Foster good relations between different people when carrying out their activities.

An Equality with Human Rights Analysis has been completed and the conclusion confirms that the Affordable Warmth Strategy (AWS) includes consideration of protected characteristics as part of the objectives and actions set out to address fuel poverty.

6. Risk Implications

6.1 Options Explored

- 1) To progress the Affordable Warmth Strategy and deliver the actions set out to address fuel poverty which delivers the Council's Vision 2025 ambitions.
- 2) To reduce the scale and ambition of the Affordable Warmth Strategy and deliver the actions over a longer timescale to relieve pressure on Council resources.

6.2 Key risks associated with the preferred approach

The preferred approach, option 1, relies on the Council to continue to be able to secure external funding to deliver energy efficiency measures and having the necessary Council resources. The Council will need to review the actions identified in the Strategy regularly over the next five years to ensure they remain deliverable.

7. Recommendation

- 7.1 Policy Scrutiny Committee are asked to consider the draft Affordable Warmth Strategy and decide whether it should be referred to the Executive for approval.

How many appendices does the report contain?

One

List of Background Papers:

None

Lead Officer:

Kate Bell, Climate Change Manager



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DRAFT Affordable Warmth Strategy

2022-27

Month 2022

1

Foreword



Councillor Donald Nannestad
Deputy Leader and Portfolio
Holder for Quality Housing.

A basic requirement of life is a home that is both warm and dry. However some residents find themselves living in poorly insulated properties that have inefficient, ineffective heating systems that are expensive to run.

Couple this with low incomes and this can lead to people being forced to choose between heating their home and buying food. The consequences of cold damp homes is the deterioration of health especially amongst the vulnerable in our society, exacerbating conditions such as asthma, arthritis and mental health, while increasing the risk of heart disease and strokes.

Tackling fuel poverty can have far-reaching benefits, from reducing health risks and relieving pressure on health services, to cutting carbon emissions, contributing to our fight to tackle the climate emergency.

Our new strategy sets out what we will do over the next five years to ensure that all residents in Lincoln have a warm place to call home. I'm confident it can make a real difference to the lives of many of our residents.



Councillor Bob Bushell,
Portfolio Holder for Remarkable
Place and Climate Change.

Improving domestic energy efficiency is one of the most effective ways to tackle fuel poverty. It's shocking that the average annual fuel bill is three times higher for those living in the least efficient homes in comparison to those in the most efficient homes (Band A-C). Our residents are spending their hard-earned money heating inefficient homes that retain heat so poorly, or simply can't afford to do so and go without.

Not only does improving domestic energy efficiency help reduce fuel poverty, it also helps tackle the Climate Emergency by reducing domestic carbon emissions, which account for 35% of Lincoln's carbon emissions.

This is why we are prioritising domestic energy efficiency in both our fuel poverty strategy and our emerging Climate Emergency Strategy, which will be published in 2022.

With growing attention on the pressing issue of the Climate Emergency and the impact of domestic emissions, our strategy aims to ensure that we leverage as much Government funding as possible, focusing on reducing energy loss and installing renewable energy measures to support fuel poor households in Lincoln, whilst helping to tackle the Climate Emergency.



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2 Executive Summary

Ensuring quality housing for all our residents will be a key part of Lincoln's Vision 2025 strategic priorities. A home should be warm, comfortable and affordable, providing a healthy environment that encourages good health and well-being. When a household is unable to keep their home heated to an adequate temperature, they are said to be in fuel poverty. This is often the result of a combination of low income, high fuel prices and poor energy efficiency.

Fuel poverty is a considerable issue in Lincoln, with 15.4 per cent of residents living in fuel poverty in 2019, the most recent available open data. Since 2020 the COVID-19 pandemic has resulted in many consumers seeing reduced income and therefore an increased number of households may now be struggling with their energy bills, especially during Winter.¹ In addition evidence from the UK Health Security Agency (UKHSA) shows that fuel poverty puts households at greater risk from the worst effects of Covid-19.²

Over recent years, the City of Lincoln council working with the Greater Lincolnshire Energy Efficiency Network (GLEEN) have been working to tackle fuel poverty in county. Since 2018 GLEEN have successfully bid for nearly £784,800 funding towards projects delivering gas connections and central heating to 200 fuel poor households as well as training and advice in health and housing issues.

We have also continued to fund the Big Energy Saving Network, currently held with YMCA Lincolnshire, which provides advice and outreach services to help reduce fuel bills and maximise income, as well as practical home improvement work to increase energy efficiency.

This Affordable Warmth strategy brings together the success of our partnership approach to ensure that all sectors are working together to tackle fuel poverty effectively. The strategy reflects the objective of the Council's Housing Strategy 2021 – 2026 to improve housing standards for all and contributes to the Council's ongoing work to achieve a net zero carbon target by 2030.

Key objectives of the Lincoln Affordable Warmth Strategy 2021 - 2026:

- To reduce the number of Lincoln residents that are in fuel poverty, targeting those with the highest fuel poverty gap.
- To improve our processes for identifying residents who are in fuel poverty or at risk of ill health due to a cold home.

¹ [Sustainable warmth: protecting vulnerable households in England \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

² [Public health annual report 2021: rising to the challenges of COVID-19 | Local Government Association](#)



- To increase the number of homes in Lincoln with domestic energy efficiency ratings of C, one of the key ways in which the City can tackle the Climate Emergency.

3 Introduction

The ability to live in comfortable warm surroundings is today taken for granted by most people, but for some, in particular those that are disadvantaged or the more vulnerable in the community it is a constant struggle to keep their home warm during the winter months. This is particularly relevant given the impact coronavirus (COVID-19) can have on respiratory systems, where symptoms may make individuals more vulnerable to cold exacerbated ill-health.

In September 2021 the wholesale rise in gas prices has led to the collapse of multiple energy suppliers and raised fears of increased bills over Winter. This is of particular concern for those households who find themselves on low incomes, unable to afford to heat their homes.

“The Covid19 pandemic has once again brought the connection between poor, overcrowded housing and health and wellbeing into stark relief. A legacy of the pandemic must be a renewed determination to ensure that everyone has access to a decent, affordable home.” John Bibby, Chief Executive of the Association of Retained Council Housing

What is Fuel Poverty?

Fuel poverty occurs when a household cannot keep its home warm, well-lit and with hot water at an acceptable cost. In 2013, the government adopted the new definition of fuel poverty, with the “Low Income High Costs” (LIHC) indicator, that categorises a household as fuel poor when it has:

- An income below the poverty line (including if meeting its required energy bill would push it below the poverty line); and
- Higher than typical energy costs (higher than the median).

Being on the poverty line, refers to household income below 60% of the average. Also, in terms of the median energy costs, according to Ofgem, the average dual fuel variable tariff is approximately £92 per month or £1,106 a year (as of September 2021).³

In practice, we recognise that some households do not meet these criteria but may still struggle to keep their home warm. Our strategy aims to support households in Lincoln that cannot afford to heat their home to an adequate temperature.

What causes Fuel Poverty?

³ [Retail market indicators | Ofgem](#)



Residents tend to be in fuel poverty as a result of one or more of the following three key drivers:

❖ Low income

Households experiencing fuel poverty earn less than half of the average UK household income, at just £10,325 a year.⁴ Households on a lower income are more likely to experience fuel poverty as they are required to spend a higher proportion of their income on keeping their home warm.

❖ High fuel prices

When national fuel prices go up, households are required to spend a higher proportion of their income on heating. Fuel price rises push more people into fuel poverty and increase the fuel poverty gap of those households that are already fuel poor.

The price a household pays for fuel can also vary based on how the energy supplier sets its tariffs and how households pay their bills. For example a fixed tariff sets the energy price for a fixed period, whilst a standard tariff can vary. Households tend to pay higher prices when paying by cash or cheque on receipt of a bill than those paying by direct debit.

For households with a pre payment meter they are able to pay small amounts often, but it's usually a more expensive way to pay for energy.⁵ Fuel poverty charity [National Energy Action \(NEA\)](#) warns that the average increase of £153 for prepayment customers and £139 from those paying by direct debit using a default tariff is likely to result in more utility debt, 500,000 extra households in fuel poverty and an increase in preventable deaths this winter.⁶

❖ Poor energy efficiency

The cost of heating a home can differ greatly depending on its energy efficiency. When a home is very inefficient, it costs a lot to keep it heated to a comfortable temperature as energy is wasted, normally due to an inefficient heating system or lack of insulation.

The energy efficiency of a home is measured by a SAP (Standard Assessment Procedure) rating, numbered from 0 (low efficiency) – 100 (high efficiency) and banded from A-G. The SAP rating is shown on an Energy Performance Certificate (EPC), which also includes estimated costs for heating the home and recommended measures for improving the home's energy efficiency.

All homes let or sold since 2008 must have an EPC, which remains valid for 10 years. Average annual fuel costs for the least efficient properties (Band G) were three times higher (£2,861) than costs for the most efficient properties (£939) (Band A-C) in 2017 in England.

Households living in homes with poor energy efficiency will spend more on fuel to keep their home adequately heated and are more likely to be fuel poor.

⁴ [What is fuel poverty? | usave.co.uk](https://www.usave.co.uk/what-is-fuel-poverty/)

⁵ [Decide if prepayment is right for you - Citizens Advice](#)

⁶ [500,000 at risk of fuel poverty after tomorrow's price rises - NEA](#)

❖ Household behaviours

As well as these three key drivers, inefficient use of energy through particular behaviours can also increase fuel bills and increase the risk of fuel poverty. Examples include:

- Having the heating on whilst nobody is at home.
- Keeping windows open when the heating is on.
- Leaving household appliances on when they are not being used.

What are the consequences of Fuel Poverty?

Cold, damp homes, which are inadequately heated or ventilated, have been repeatedly linked to ill health and early deaths amongst the most vulnerable. This link gives rise to, and exacerbates, several medical conditions including hypothermia, cardiovascular disease, and respiratory illnesses such as bronchitis, childhood asthma and pneumonia etc. Cold homes also impact on conditions such as rheumatism, arthritis and those people with poor mobility, thus increasing the risk of falls and other household accidents.

The effect of cold, damp homes can also have a negative effect on people's mental health, leading to stress and anxiety which may be compounded by high bills, fuel debt and other related factors. Poor living conditions will impact on a householder's sense of wellbeing and their perception of quality of life.

Other compounding factors must also be brought into the equation as these may contribute to or exacerbate fuel poverty. For example, those households that contain one or more individuals that require higher indoor temperature levels due to health conditions or because they are more sedentary and spend longer periods in the home. This might be a household that includes very young children, pensioners, or those with long-term illnesses or disabilities.

Although not necessarily in receipt of benefit, these households tend to be on lower incomes and have less capital to improve their homes. In terms of fuel poverty these households are deemed to be 'vulnerable'.

The City of Lincoln Affordable Warmth Strategy aims to assist its residents move out of fuel poverty and will facilitate support and actions to improve the health and well-being of the city's more vulnerable households.



4 The National Context

The UK Sustainable Warmth Strategy 2021

In February 2021 the Government published the Sustainable Warmth Strategy⁷ which outlines Government support for vulnerable households in England. The Strategy sets out its ambition to work towards homes being EPC Band C by 2030, with interim milestones (contained in the 2015 fuel poverty strategy):

- As many fuel-poor homes as is reasonably practicable to Band E by 2020.
- As many fuel-poor homes as is reasonably practicable to Band D by 2025.

Key actions contained in the strategy (some of which have already been announced) include:

- Investment of £60m to retrofit social housing, and £150m invested in the Home Upgrade Grant.
- A review of the Decent Homes Standard.
- Expand the Energy Company Obligation (ECO) – a requirement for larger domestic energy suppliers to install heating, insulation or other energy efficiency measures in the homes of people who are low income and vulnerable or fuel poor.
- Invest in energy efficiency of households through the £2bn Green Homes Grant, with a renewed focus on low income households to install energy efficient and low carbon heating measures in their homes.

Decent Homes Standards

The Charter for Social Housing Residents: Social Housing White Paper published on 17 November 2020 announced a review of the Decent Homes Standard to understand if it is right for the social housing sector today. [A decent home: definition and guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/a-decent-home-definition-and-guidance)

The Government have commenced a review of the Decent Homes Standard which is being conducted in two parts.

Part 1 will run from Spring to Autumn 2021 and will seek to understand the case for change to criteria within the Decent Homes Standard. If the case for change is made, part 2 will run from Autumn 2021 to Summer 2022 and will consider how decency should be defined.

It is anticipated that the Government's main outcome will be a refreshed Decent Homes Standard.

⁷ [Sustainable Warmth – Protecting Vulnerable Households in England.](#)



Minimum Energy Efficiency standards (MEES)

The Energy Efficiency Regulations 2015, (as amended most recently by the Energy Efficiency Regulations 2019) introduced a minimum energy efficiency standard for the private rented sector.

- Since 01 April 2018, landlords of relevant domestic private rented properties must not grant a tenancy to new or existing tenants if their property has an EPC rating of F or G (as shown on a valid EPC for the property)
- Since April 2020, landlords must not continue letting a relevant domestic property which is already let if that property has an EPC rating F or G (as shown on a valid EPC for the property). Landlords were encouraged to take action to ensure that their properties reached EPC E by the deadline of 01 April 2020.

The Government has committed to upgrade as many private rented sector homes as possible to Energy Performance Certificate (EPC) Band C by 2030, where practical, cost-effective and affordable.⁸ In September 2020 the Government consulted on a suite of policy proposals towards achieving this target and we are awaiting the outcome of the consultation.

Heat and Buildings Strategy 2021

In October 2021 the Government published the Heat and Buildings Strategy⁹ The strategy sets out the government's plan to significantly cut carbon emissions from the UK's 30 million homes and workplaces in a simple, low-cost and green way whilst ensuring this remains affordable and fair for households across the country.

The strategy builds on the commitments made in Clean growth: transforming heating¹⁰, our Energy white paper¹¹ and the Prime Minister's 10 point plan¹². The strategy aims to provide a clear direction of travel for the 2020s, set out the strategic decisions that need to be taken this decade, and demonstrate how the Government plan to meet our carbon targets and remain on track for net zero by 2050.

Government sets out plan to drive down the cost of low carbon heating technologies like heat pumps, working with industry to ensure that in future they are no more expensive to buy and run for consumers as fossil fuel boilers households to benefit from £5,000 government grants through £450 million Boiler Upgrade Scheme to help install low-carbon heating systems, part of more than £3.9 billion of new funding to decarbonise heat and buildings £60 million innovation fund launched to make clean heat systems smaller and easier to install and cheaper to run funding supports

8

⁹ <https://www.gov.uk/government/publications/heat-and-buildings-strategy>

¹⁰ <https://www.gov.uk/government/publications/heat-decarbonisation-overview-of-current-evidence-base>

¹¹ <https://www.gov.uk/government/publications/energy-white-paper-powering-our-net-zero-future>

¹² <https://www.gov.uk/government/publications/the-ten-point-plan-for-a-green-industrial-revolution/title>

government's confirmed ambition for all new heating systems installed in UK homes from 2035 to be low carbon.

UK Net Zero Strategy 2021

In October 2021 the Government published the Net Zero Strategy¹³ which commits to providing £3.9 billion of new funding for decarbonising heat and buildings, including the new £450 million 3-year Boiler Upgrade Scheme, so homes and buildings are warmer, cheaper to heat and cleaner to run.

Home Energy Conservation Act 1995

The Home Energy Conservation Act 1995 (HECA) requires all 326 local authorities in England to submit reports to the Secretary of State demonstrating what energy conservation measures they have adopted to improve the energy efficiency of residential accommodation within that LA's area. This covers measures to improve properties in the owner-occupier, private rented sector, and social rented sector. The Department of Business Energy & Industrial Strategy (BEIS) uses data submitted through Local Authority's HECA returns to inform policy thinking on energy efficiency, and to build an ongoing picture of local and national energy efficiency policy delivery. Since 2013 the City of Lincoln Council has submitted a bi-annual progress report.

The Care Act 2014

A fundamental component of the Care Act is the 'suitability of accommodation' in meeting the at home care and support needs of older and vulnerable people. The Act and the accompanying regulations and guidance outline how housing can support a more integrated approach. Of particular note:

- A general duty to promote wellbeing makes reference to suitable accommodation.
- Housing is not just the 'bricks and mortar', also includes housing related support or services.
- Housing must be considered as part of an assessment process that may prevent, reduce or delay an adult social care need.
- Information and advice should reflect housing options, as part of a universal service offer.
- Care and support delivered in an integrated way with cooperation with partner bodies, including housing.

¹³ <https://www.gov.uk/government/news/uks-path-to-net-zero-set-out-in-landmark-strategy>

5 The Local Context

Lincoln is a city with huge ambitions. The vision for the city is

'Homes are sustainable and fuel efficient, fuel poverty is a thing of the past.'

The Council's Vision 2025 sets out a range of projects that focus on improving the health of residents of Lincoln and ensuring they have and can live the best quality of life. [vision-2025-strategic-plan \(lincoln.gov.uk\)](https://lincoln.gov.uk/vision-2025-strategic-plan)

The Affordable Warmth Strategy will complement the Council's existing policies and strategies to support our most vulnerable residents.

Local Policies to address fuel poverty.

The Council produces strategies that set the housing priorities for Lincoln, and what we are going to do to address them. On 22 February 2021 the Council formally adopted the Lincoln Housing Strategy 2020-25. This Housing Strategy sets out how we will work together with our partners across the public, private and voluntary sectors to meet housing demand and improve standards across all tenures.

The Housing Strategy seeks to deliver quality housing through three objectives:

- Providing housing which meets the varied needs of our residents;
- Building sustainable communities;
- Improving housing standards for all.

Improving the housing condition is important because we know that living in a cold, damp home can have a detrimental effect on the health and wellbeing of residents of all ages. The City of Lincoln Council through this Affordable Warmth Strategy and its key partnerships intend to fulfil this ambition by raising living standards across the City through improving energy efficiency and reducing fuel poverty.

The City of Lincoln Council's Private Housing Health Assistance Policy¹⁴ seeks to:

- To provide advice, information and support on repair, maintenance and adaptation of properties across the City.
- To offer a health based framework of assistance to vulnerable groups & households, including those with a long term health condition.
- Whilst it is recognised that it is the home owner's responsibility to maintain their own properties the Council will target limited resources to those that are most vulnerable or have a health condition and are not able to maintain their own properties which could impact on their independent living.
- Private landlords will not be eligible for any grants under this policy. Landlords have a duty to maintain their properties free from hazards and the Council will exercise their enforcement powers as appropriate to ensure that safe and healthy standards are attained in the private rented sector. In

¹⁴ [private-housing-health-assistance-policy-2018-22 \(lincoln.gov.uk\)](https://lincoln.gov.uk/private-housing-health-assistance-policy-2018-22)

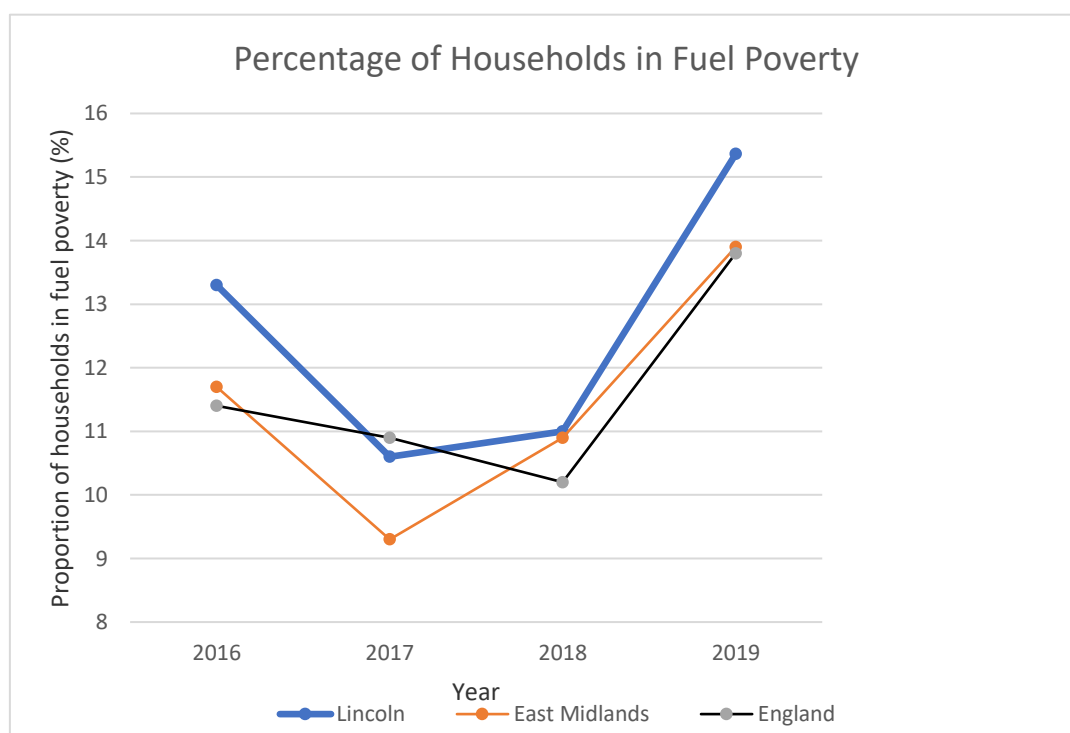


certain circumstances the tenant maybe eligible to apply for a grant under this policy, this will be considered on a case by case basis.

- To contribute to the aims of the Better Care Fund, principally to reduce delayed transfers of care, minimise avoidable hospital admission and facilitate early or timely discharge from hospital by tackling housing related matters.
- To facilitate an increase in the number of vulnerable households able to heat their homes at reasonable cost.
- To assist disabled people with adaptations to facilitate their movement in and around their home thereby improving their quality of life.
- In offering assistance the Council will promote relevant services offered by other organisations.
- To treat individuals fairly as required by the Equality Act 2010 and ensure that an individual's rights under Data Protection and human rights legislation are protected.

Fuel Poverty in Lincoln

The latest available data for Lincoln, shows that the City has the second highest level of fuel poverty of all districts in Lincolnshire. Between 2016 and 2019, the proportion of Lincoln households in fuel poverty from 13.3% in 2016 to 15.4% in 2019. This is proportionally higher than the England and East Midlands percentage figures. In 2019 the total estimated number of households meeting the government's fuel poverty criteria was 6568.¹⁵



[Sub-regional fuel poverty data 2021 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/981910/2021-sub-regional-fuel-poverty-tables.xlsx)

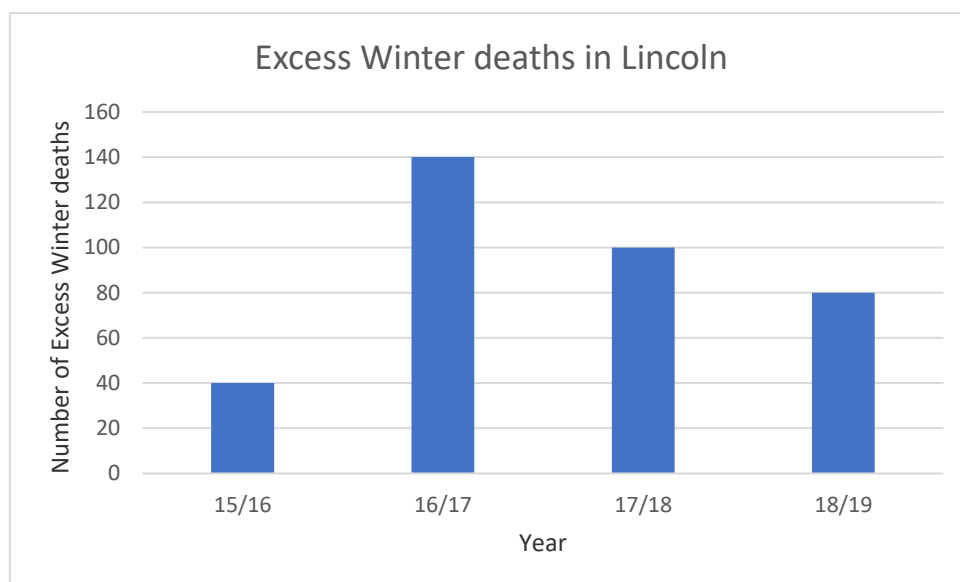
The World Health Organisation (WHO) estimates that 30 per cent of excess Winter Deaths are attributable to cold homes. The following chart shows that in Lincoln

¹⁵

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/981910/2021-sub-regional-fuel-poverty-tables.xlsx



there are on average 73 excess winter deaths per year. Therefore the average number of cold related excess winter deaths in Lincoln is 27. The Department of Health in 2009 estimated that for every cold-related death there are eight non-fatal hospital admissions.¹⁶ For Lincoln, this means that for the 27 cold-related deaths that occur each winter, there are at least 216 hospital admissions.



The National fuel poverty charity NEA highlighted that millions of people in cold homes are at greater risk this winter, as COVID-19 intensifies seasonal stresses for those on lowest incomes and in the least efficient homes.¹⁷

The energy efficiency of homes in Lincoln has improved since the introduction of the Energy Performance Certificate in 2008. A programme of investment in Lincoln's council homes has raised the average SAP from 61.37 in 2016 to 70.31 in 2021.

The average SAP for all homes in Lincoln, in the table below, shows that privately owned and rented homes in Lincoln are more energy inefficient. It is therefore a priority in this Affordable Warmth Strategy to work with households and landlords to improve the average SAP for Lincoln properties over the next 5 years.

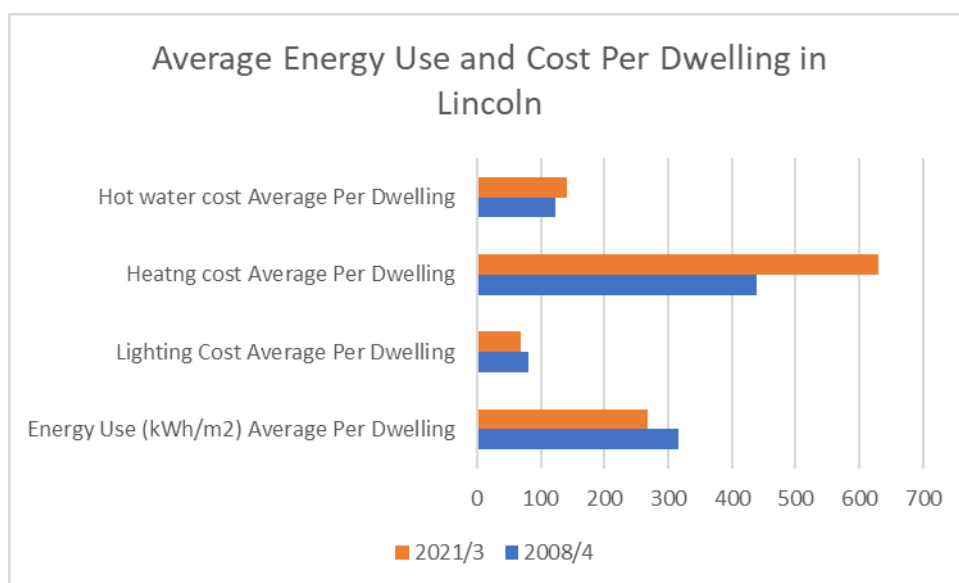
	Average SAP
Council Stock:	70.3
Private Sector:	48
Owner Occupier:	47
Housing Association:	66
Private Rented:	49

¹⁶ [the-health-impacts-of-cold-homes-and-fuel-poverty.pdf \(instituteofhealthequity.org\)](#)

¹⁷ [New ONS figures reveal cold homes death toll - NEA](#)



The average household energy consumption in Lincoln has also reduced since 2012, however as the graph below shows the average cost of energy has increase by 22%.



[Energy Performance of Buildings Certificates - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/energy-performance-of-buildings-certificates)

The rise in energy cost is due to the rise in whole sale energy process leading to higher costs to the consumer for heating and hot water. The cost of lighting has actually reduced by 6% due to the availability of more energy efficient lighting appliances. The UK began phasing out the sale of higher-energy halogen lightbulbs in 2018 under EU-wide rules.



6

Progress So Far



Greater Lincolnshire Energy Efficiency Network (GLEEN)

The Greater Lincolnshire Energy Efficiency Network (GLEEN) brings together the main parties involved in the development of strategies and initiatives to tackle fuel poverty through improving the energy efficiency of homes and reducing energy costs.

The remit and main purpose of GLEEN is to coordinate home energy efficiency advice and affordable warmth schemes across the Greater Lincolnshire area and collaborate to fulfil statutory Home Energy Conservation Act (**HECA**) duties.

In October 2020 GLEEN published an Energy Company Obligation Local Authority Flexible Eligibility Statement of Intent (SOI) signed by all Local Authorities in Greater Lincolnshire.¹⁸ The purpose of the SOI is to extend eligibility for Energy Company Obligation (ECO) funding from people who are in receipt of qualifying means tested and disability benefits to:

1. People who are fuel poor (FP) – living on a low income and in a home with high heating costs; and
2. People who are living on a low income and are vulnerable to the effects of living in a cold home.

In March 2020 GLEEN set up the Lincs 4 Warmer Homes (L4WH) Scheme through a Partnership Agreement with Local Authorities in Greater Lincolnshire. The scheme is managed by North East Lincolnshire Council and supports residents to access ECO and Warm Homes funding and appoint accredited installers from the L4WH framework. More information about the scheme available on the Council's website [Green and sustainable living – City of Lincoln Council](#)

Safe Warm and Well

The Council has a statutory duty for the provision of mandatory Disabled Facilities Grants under the provisions of the Housing Grants, Construction & Regeneration Act 1996. In addition, the Council has the discretion to provide flexible assistance to help improve living conditions as determined by the

¹⁸ [Energy Company Obligation Local Authority Flexible Eligibility Statement of Intent \(nelincs.gov.uk\)](#)



Council in adopting Article 3 of the Regulatory Reform Order (Housing Assistance) (England & Wales) Order 2002.

The discretionary scheme provides support to owner occupiers over the age of 65, or those with chronic or severe health conditions affected by poor housing conditions who need to undertake essential repairs to their home to remain safe and healthy.

Green Homes Grant Local Authority Delivery Scheme

In 2021 the Council received £479,600 from the Midlands Energy Hub to deliver a trial of the Green Homes Grant Local Authority Delivery Scheme (LAD1). LAD 1 funding can be used to help cover the cost of a wide range of retrofit measures, including roof and wall insulation, double glazing windows and other low carbon heating solutions. The scheme is available to owner occupiers or tenants with a household income of less than £30 000 per year.

The scheme is currently underway and has identified 40 homes in Lincoln and is working with the residents and installers to improve the energy efficiency of their homes to PAS 2035 standard. The scheme is due to be completed by March 2022.

In November 2021 the Council secured an additional £2.8 million from the Government's Sustainable Warmth Fund to improve the energy efficiency of an additional 250 homes by April 2023. The council will continue to seek to secure funding to raise the average SAP of private sector homes and reduce fuel poverty wherever possible.



7 Priorities Going Forward

Raise Awareness of Affordable Warmth

The efforts to combat fuel poverty in the UK have often been hampered by the poor knowledge that residents have of affordable warmth and its potential benefits. Homeowners have not prioritised spending on insulation measures and have only requested advice after serious problems have occurred. The importance of affordable warmth is now beginning to be recognised through schemes such as the Home Information Packs, but this is still only a catalyst for action when people come to move house.

This priority focuses on the need to ensure the profile of fuel poverty and the Affordable Warmth Strategy are raised through promotions and training to allow better cross partnership commitment and fuel poverty awareness between agencies, stakeholders and partners.

Improving the Energy Efficiency of All Housing in Lincoln

To successfully tackle fuel poverty, it is important that the housing stock across all tenures is brought up to a minimum standard. This priority focuses on ensuring a better standard of housing is available and that where possible those properties are future proofed against fuel poverty and climate change.



Deliver a Co-ordinated approach to Affordable Warmth

This priority centres on the need to ensure high-level awareness, resource and information sharing across all agencies to address fuel poverty in the community. A well-coordinated approach is characterised by clear identification of need, planned and effective use of resources and the utilising of innovative solutions to ensure everyone benefits from affordable warmth measures.

The City of Lincoln Council will continue to work with the Greater Lincolnshire Energy efficiency Network to deliver a joined up approach to address fuel poverty. We will seek to collaborate with our neighbouring councils within central Lincolnshire, wherever possible, to improve the efficiency of services to our residents.

8 Affordable Warmth Action Plan

No.	Action	Priority	Responsibility	Delivery
1	To carry out appropriate housing energy advice and support activities on how to achieve affordable warmth through lifestyles changes, accessing cheaper energy tariffs, and taking advantage of government and energy company grants to improve the energy efficiency of people's homes.	Raise Awareness of Affordable Warmth	Climate Change Manager	Ongoing throughout the Strategy
2.	To develop further collaborative working with the Greater Lincolnshire Energy Efficiency Network to raise awareness of the health impact of living in cold homes	Deliver a Co-ordinated approach to Affordable Warmth	Climate Change Manager/Private Sector Housing Team Leader	Ongoing throughout the Strategy



		Improving Health and Well-Being		
3.	To identify homes where an excess cold hazard exists and to take appropriate action to reduce the hazard. This may include the use of external grant funding or enforcement action in the case of privately-rented accommodation and internal and external financial assistance for vulnerable owner occupiers.	Improving Health and Well-Being	Private Sector Housing Team	Ongoing throughout the Strategy
	To review and implement the Council's Statement of Intent on delivering ECO Flexible Eligibility to reach as many vulnerable households as possible.	Improving the Energy Efficiency of All Housing in Lincoln	Private Sector Housing Team Leader/ Climate Change Manager	September 2023
	To continue to utilise discretionary funding to expediate the discharge from hospital, of vulnerable residents into a warm and safe home environment.	Improving Health and Well-Being	Private Sector Housing Team	Ongoing throughout the Strategy
	To deliver the Sustainable Warmth Programme to improve the energy performance of fuel poor homes.	Improving the Energy Efficiency of All Housing in Lincoln	Climate Change Manager	Ongoing throughout the Strategy
	To continue to identify external sources of funding that could be accessed to support affordable warmth work e.g. Sustainable Warmth,	Improving Health and Well-Being Improving the Energy Efficiency of All Housing in Lincoln	Climate Change Manager	Spring 2022 Social Housing decarbonisation Fund. August 2022 Sustainable Warmth Fund for 2023/24

**SUBJECT: REGULATION OF INVESTIGATORY POWERS ACT 2000
(RIPA) UPDATE**

DIRECTORATE: CHIEF EXECUTIVE'S AND TOWN CLERK

REPORT AUTHOR: BECKY SCOTT, LEGAL SERVICES MANAGER

1. Purpose of Report

- 1.1 To report the number of authorisations under RIPA since the last report to Executive and seek comments on the revised Policy.

2. Background

- 2.1 The Council has a RIPA Policy which cover implications for all staff who investigate suspected criminal offences and other breaches of regulations for which the Council is responsible. The Policy includes the procedures for obtaining authorisations and together these explain:
- the purpose of the Act in relation to the Council's functions
 - the circumstances which it applies to
 - how to make sure that it is complied with
 - functions of the Central Register
 - process for authorisations
 - details for authorisations
 - and provides guidance on the use of Social Media in investigation as well as guidance on the use of Covert Human Intelligence Source (CHIS) and how to obtain a CHIS authorisation
- 2.2 The RIPA Policy was firstly approved by the Executive in June 2016, and has since been amended. The Policy has now been further reviewed and updated. The changes are highlighted in Appendix A which is a tracked change version with the amendments underlined. These include the following:-
- Updating some administrative elements
 - including the updated Social Media guidance and form which have previously been issued as guidance alongside the policy, to add weight to those requirements
 - included additional information about reporting breaches
 - incorporating the use of drones for Covert Surveillance
 - Expands on the legal test of necessary and proportionality to help officers understand these and the Directed Surveillance Crime Threshold.
 - Formalising the ability of the Monitoring Officer to review complaints from members of the public arising from our use of a RIPA or CHIS authorisation
 - Sets out guidance for Authorising Officers on the review, renewal

- and cancellation of authorisations
- Recognises a duty of care to a CHIS
- Inserts links to the government CHIS and Directed Surveillance forms.

A clean version is attached at Appendix B.

- 2.3 The Council was inspected by the Investigatory Powers Commissioner's Office on in July 2019. The report stated:-

The inspection has shown that City of Lincoln Council has appropriate written procedures, appropriate training and a robust system of permissions with good management oversight prior to anyone conducting social media research, which legitimately avoids the need for covert authorisations.

...
There was abundant evidence of good practice. The investment in training, the existence of sound policies and procedures, as well as the existence of good management and legal oversight of research that could require a RIPA authorisation if not correctly managed, demonstrated that City of Lincoln Council has made appropriate and reasonable efforts to guard against unauthorised RIPA activity.

Officers do not know whether a further inspection will be done, however it has been suggested that this would be a remote one rather than face to face in future. The Council has recently received a request by the Investigatory Powers Commissioner's Office for our annual return in respect of authorisations.

- 2.4 In August 2018 the following revised Codes were implemented:-

- a) Covert Surveillance and Property Interference
- b) Covert Human Intelligence Sources

The Codes are referenced in the RIPA policy.

- 2.5 We have previously issued a briefing note to all relevant managers about the use of Social Media as a result of the revised Codes being implemented and provided additional guidance about this area. This was rolled out in Netconsent. The Codes did not change the legislation in any way, nor affect the content of the Council's policy, however it gives more guidance on the term 'private information' and provides examples about how to apply the Codes and the legislation.
- 2.6 The Legal team most commonly offer support to service areas as and when they are investigating issues which could benefit from using social media, as opposed to advising on seeking formal authorisations to carry out surveillance.
- 2.7 This policy, if approved, will be taken into Service Managers Forum and rolled out on Netconsent for relevant enforcement teams and an offer will be made to give tailored training by the Legal Services team as required.
- 2.8 There have been no authorisations applied for nor obtained through the Magistrate's Court to carry out any covert surveillance since the last report to Executive, when there were also none. This is something which we are obliged to

report to Executive under the framework.

3 Organisational Impacts

3.1 Finance

There are no finance implications in this report.

3.2 Legal Implications

As outlined in the report.

3.3 Equality, Diversity & Human Rights

The Public Sector Equality Duty means that the Council must consider all individuals when carrying out their day-to-day work, in shaping policy, delivering services and in relation to their own employees.

It requires that public bodies have due regard to the need to:

- Eliminate discrimination
- Advance equality of opportunity
- Foster good relations between different people when carrying out their activities

The Council's RIPA policy enhances transparency in decision-making. For any authorisation applied for, the Council will ensure that requests consider any potential impact on individuals and groups who share protected characteristics.

4. Risk Implications

4.1 (i) Options Explored

It is a requirement to review this policy and update it accordingly.

4.2 (ii) Key risks associated with the preferred approach

None.

5. Recommendation

5.1 That members note this report and provide comments on the revised Policy.

Is this a key decision?

No

Do the exempt information categories apply?

No

Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply?

No

How many appendices does

Two

the report contain?

List of Background Papers:

None

Lead Officer:

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(01522) 873441



REGULATION OF INVESTIGATORY POWERS ACT 2000

POLICY

Document Control

Organisation	City of Lincoln Council
Title	Regulation of Investigatory Powers Act 2000 Policy
Author – name and title	Becky Scott, Legal Services Manager
Owner – name and title	Becky Scott, Legal Services Manager
Date	July 2018
Approvals	Executive
Filename	
Version	V 2.0
Protective Marking	Official
Next Review Date	January 2023

Document Amendment History

Revision	Originat or of change	Date of change	Change description
1 st Revision	Becky Scott	May 2016	Updating officer details from previous policy and including the CHIS guidance in the policy rather than a separate document
2 nd Revision	Becky Scott	July 2018	No changes however reported to Executive
3 rd Revision	Becky Scott	July 2021	Changes to authorisations, incorporates technological advances and how to report errors along with some administrative changes

1. GENERAL

- 1.1 The Regulation of Investigatory Powers Act 2000 (RIPA) came into force on the 25th September 2000. The main purpose of the Act is to ensure that individual's rights are protected whilst allowing law enforcement and security agencies to do their jobs effectively and act proportionately.
- 1.2 Under Section 28 and 29 of RIPA, it has implications for all staff who investigate suspected criminal offences and other breaches of regulations for which the Council is responsible in regards to Directed Surveillance and Covert Human Intelligence Sources (CHIS).
- 1.3 This Policy includes the attached 'Guidance to Staff on Use of Covert Human Intelligence Sources (CHIS)' (Appendix A). This together with the Policy outlines the procedures for obtaining authorisations and together these explain:
 - the purpose of the Act in relation to the Council's functions
 - the circumstances which it applies to
 - which authorities can use the powers
 - who should authorise each use of power
 - the use that can be made of the material gained
 - how to make sure that it is complied with
 - functions of the Central Register
 - process for authorisations
 - details for authorisations
 - independent judicial oversight
 - a means of redress for the individual

The use and conduct of a CHIS will be referred to generally in this Policy, and where appropriate, it is important that officers familiarise themselves with the more detailed Guidance to Staff on use of a CHIS in Appendix A.

- 1.4 The policies and procedures set out in this Policy replace all those previously in circulation within the Council. This Policy can also be found on Netconsent.
- 1.5 The City of Lincoln Council is NOT empowered to undertake:
 - Intrusive Surveillance or
 - Entry onto or interference with property or wireless telegraphy
- 1.6 The Policy is based on the provisions of RIPA, the Home Office Codes of Practice on Covert Surveillance and Property Interference and the use of CHIS as well as the Home Office Guidance to Local Authorities in England and Wales on the Judicial Approved Process for RIPA and the Crime Threshold for Directed Surveillance. When implementing this Policy, the Officer and the Authorising Officer must ensure

that there is compliance with the Home Office Codes of Practice on CHIS and covert surveillance. This can be found at:

<https://www.gov.uk/government/publications/covert-surveillance-and-covert-human-intelligence-sources-codes-of-practice>

- 1.7 The provisions of RIPA do not cover authorisations for the use of overt CCTV surveillance systems. Members of the public are aware that such systems are in use for their own protection and to prevent crime. However authorisation may be required if a CCTV camera is to be used for surveillance as part of a specific investigation or operation otherwise than as an immediate reaction to events. In such circumstances authorisation may either be required by the Council's Authorising Officer or it may come from the police. Where authorisation is given by the police then a record of this authorisation must be kept and officers must ensure that any surveillance is kept within the terms of this authorisation.
- 1.8 The Covert Surveillance Codes of Practice has kept pace with technology and now acknowledges that Drones can now be used to conduct covert surveillance. Any Council Officers using a drone as part of their duties must adhere to this policy and the ICO's CCTV code of Practice or any Civil Aviation Authority Regulations.
- 1.9 There is a Flowchart at the end of this Policy to summarise the requirements of the RIPA.

2.0 THE PURPOSE OF RIPA

- 2.1 Many teams in the Council find themselves having to undertake investigations of some kind or another from time to time. For some officers it is the essence of their job.
- 2.2 In the vast majority of cases, investigations can be carried out overtly, i.e. in circumstances where the person under investigation is made aware that he or she is being investigated. Investigations will be carried out overtly wherever possible. Where an operation can be carried out overtly RIPA does not apply.
- 2.3 However, investigations have the potential to interfere with an individual's human rights, particularly those under Article 8 of the European Convention of Human Rights which provides that "everyone has the right to respect for his private and family life" And where there is likely to be an infringement on these rights, it must be considered necessary and proportionate.
- 2.4 Article 8 goes on to say that public authorities (which the Council is one) must not interfere with this right unless such interference is;
 - (a) In accordance with the law
 - (b) Necessary for certain specified purposes, including public safety, the prevention of disorder and crime, for the protection of health and morals and the protection of the rights and freedom of others.

Local authorities are required to respect the private and family life of citizens, their homes and correspondence in accordance with the Human Rights Act 1998. This is a qualified right where interference is permissible where it is necessary and proportionate and carried out in accordance with the law. RIPA authorisations amount to an approved interference.

- 2.5 Section 6 of the Human Rights Act 1998 makes it unlawful for a Council to act in a way which is incompatible with this or any other right under the European Convention. If it does so, section 7 gives the victim the right to bring proceedings against the Council, or challenge its actions in any proceedings brought against him or her. Section 8 empowers the courts to grant an injunction and in exceptional cases to award damages against the Council.
- 2.6 The main purpose of RIPA is to provide a framework for ensuring that any interference with human rights resulting from the use of the investigatory powers regulated by the Act will be in accordance with the law.
- 2.7 Proper authorisation of the use of investigatory powers under RIPA will therefore:
 - Ensure that the evidence gathered is not challenged in the courts under section 7 of the Human Rights Act 1998
 - Protect the Council against claims under section 8 of the Human Rights Act 1998 for acting in a manner incompatible with an individual's rights under the European Convention.

3. WHEN DOES RIPA APPLY?

- Intercepting communications
- Acquiring communications data
- Intrusive surveillance
- Directed surveillance
- The use of covert human intelligence sources
- Gaining access to electronic data protected by encryption

- 3.1 Council's powers are regulated by Part II of RIPA and are limited to:

- Directed surveillance
- The use of covert human intelligence sources

- 3.2 "Surveillance" includes;

- monitoring, observing, or listening to persons, their movements, their conversations or other activities or communications
- recording anything monitored, observed, or listened to in the course of surveillance
- surveillance by or with the assistance of a surveillance device (e.g. any apparatus designed or adapted for use in surveillance)

- 3.3 Surveillance is “**covert surveillance**” if it is carried out in a manner that is calculated to ensure that person being monitored, observed or listened to etc is not aware of it.
- 3.4 Covert surveillance can be authorised under the act if it is either **Intrusive** or **Directed**.
- 3.5 Surveillance is “**intrusive**” if it is covert surveillance of anything taking place on residential premises or in a private vehicle AND it involves the investigator being on the premises or using a surveillance device (e.g. a bug or concealed camera). Local Authorities cannot undertake this type of surveillance.
- 3.6 Surveillance is “**directed**” if it is ALL of the following:
- covert
 - not intrusive
 - undertaken for a specific investigation or a specific operation
 - likely to result in obtaining private information about anyone (NB not necessarily the person targeted)
 - planned in advance
- 3.7 Even carefully directed surveillance can result in private information being obtained about persons other than the target. For example, if premises are under observation because it is suspected that an offence is being committed there, it is likely that private information about innocent visitors to the premises could be obtained as well as information about the suspected offender. Such intrusion on the privacy of people other than the target is referred to as “collateral intrusion”. Where collateral intrusion is likely, the surveillance could be “directed surveillance” even if no private information about the suspect is sought or obtained.
- 3.8 Private information is any information relating to a person’s private or family life. It may include personal data, such as names, telephone numbers and address details. It includes (but is not restricted) to information about a person’s private or family life and includes the way in which a person conducts his business and professional life. The common sense approach is to interpret the expression broadly and to recognise that it is highly likely that surveillance directed at individuals or groups of individuals will result in obtaining private information about them and/or other people they come into contact with. Where covert surveillance is unlikely to result in obtaining private information about a person (and there will be no interference with Article 8 rights) there is no requirement for authorisation under the Act.
- 3.9 Surveillance which is not planned in advance, but is undertaken by way of an immediate response to events or circumstances which make it impractical to obtain authorisation, is not regarded as directed surveillance. Thus if an investigating officer notices something suspicious by chance, he or she can continue to keep the suspect under observation without the need for written authorisation. However, returning to the scene subsequently to resume observations would require authorisation.
- 3.10 It may sometimes be necessary to use the internet to gather information prior to or during an operation which could amount to Directed Surveillance. When the internet

is likely to be used as part of an investigation it will be important to consider whether the proposed activity is likely to interfere with an individual's Article 8 rights and should only be used when necessary and proportionate. Where it is considered that private information is likely to be obtained, an authorisation must be sought. Please see paragraph 18 on social media and Appendix B, which must be adhered to before accessing an individual's social media page.

Use of Directed Surveillance (or deployment of a CHIS) could potentially be used by the Council in an investigation as a means of obtaining information. Use of either must be authorised. There are designated officers within the Council ('Authorising Officers') who are able to authorise such activity. The authorising officer must consider the detailed legal tests when deciding whether to authorise the covert activity. If the authorising officer does authorise the activity, it is still subject to a judicial process and an application must be made to the Magistrates by Legal Services for approval of the authorisation. No Directed Surveillance or the deployment of a CHIC can take place until Magistrates approval is obtained.

- 3.12 If you consider that you might wish or need to carry out Directed Surveillance or deploy a CHIS as part of an investigation or even if you are not certain whether the activities you are proposing require a RIPA authorisation, seek advice from Legal Services.
- 3.13 Most of the surveillance carried out by the Council will be **"Overt."** This means there is nothing secret about it, it is not clandestine or hidden. It will also be overt if the subject has been told it will happen (for example when we investigate noise complaints we write to the noisemaker and tell them that we will be putting in noise monitoring equipment to record the noise.
- 3.14 Local Authorities can't authorise **"property interference."** This is entry onto or interference with property or with wireless telegraphy.
- 3.15 Officers intending to undertake surveillance should therefore consider whether all the criteria set out in the above paragraphs apply to the operation. If so they should obtain authority in advance in accordance with this guidance.

Remember:

- **Overt activities DO NOT need authorisation**
- **Intrusive surveillance CANNOT be authorised**

4 AUTHORISING OFFICERS

- 4.1 There are comparatively few instances in which Directed Surveillance is likely to be necessary or justified. Most investigations can be carried out by other means. Consequently the Council has designated the following officer to authorise Directed Surveillance:

- **Chief Executive – Angela Andrews**

- 4.2 Authorised Officers shall have the appropriate training. Additional Authorising Officers will be nominated in writing by the Monitoring Officer following the Monitoring Officer being satisfied that they are appropriately trained to undertake the task.
- 4.3 An Authorisation acquired in accordance with RIPA, providing the statutory tests are met will provide the Council with a lawful basis in which to carry out covert surveillance activities which are likely to result in the officers involved obtaining private information about an individual.

5. MONITORING OFFICER

- 5.1 The RIPA Monitoring Officer is Carolyn Wheater (City Solicitor) and the Deputy is Becky Scott (Legal Services Manager)
- 5.2 The Monitoring Officer's role is to be fully aware of the contents of this policy, it's implementation and updating relevant officers as to the requirements of the legislation.
- 5.3 The Monitoring Officer will receive and investigate complaints by members of the public who reasonably believe they have been adversely affected by surveillance activities carried out by the Council.

6. APPLYING FOR AUTHORITY

- 6.1 This is a two-stage process. Firstly, an authorisation must be obtained from the Authorising Officer. Secondly, approval must be obtained from a Justice of the Peace. This involves Legal Services applying to a Magistrates Court.

Written authorisations must be completed whenever an investigation involves the use of Directed Surveillance. This provides lawful authority to carry out Covert Surveillance. Authorisations for Directed Surveillance must be in writing. Authorisation must be sought before any proposed surveillance is undertaken. The Legal Services team will be able to provide advice as to the procedure to be followed when seeking authorisation and will represent the Council at the Magistrates Court to make the application.

- 6.2 Investigating officers seeking authorisation for Directed Surveillance should do so on the standard forms issued by the Home Office. Two copies of the form should be completed. Those seeking authorisation should ensure that the standard form is the latest version by downloading the form from the Home Office web site www.homeoffice.gov.uk (simply type RIPA forms into the search engine) or checking this with the Legal Services Manager.

<https://www.gov.uk/government/publications/application-for-use-of-directed-surveillance>

- 6.3 Using the standard forms helps both applicants and authorising officers to ensure that the Act is complied with and in particular will focus their attention on the crucial issues of justifying the need for the surveillance and its proportionality to the

objective. There are separate forms for issuing, reviewing, renewing and cancelling authorisations for both Directed Surveillance and the use of CHIS (the forms for a CHIS can be found in Appendix A),

<https://www.gov.uk/government/publications/renewal-form-for-directed-surveillance>

<https://www.gov.uk/government/publications/review-of-use-of-directed-surveillance>

<https://www.gov.uk/government/publications/cancellation-of-use-of-directed-surveillance-form>

6.5 All applications for authorisation of Directed Surveillance must be in writing and record as a minimum:

- The grounds on which authorisation is sought. Note that the power to authorise surveillance exists only for the prevention and detection of crime and disorder and no other purpose for local authorities.
- An assessment of the Directed Surveillance Crime Threshold. Directed Surveillance can only be authorised under RIPA to prevent or detect criminal offences that are either punishable, whether on summary conviction or indictment, by a minimum term of at least 6 months imprisonment. There are certain specified offences relating to the underage sale of alcohol or tobacco, which are exempt from the Directed Surveillance Crime Threshold. This also means that the Council can't authorise the use of Directed Surveillance to investigate disorder that does not involve criminal offences, or to investigate low level offences, which may include, for example, littering, dog control and fly-posting.

6.4 The person granting an authorisation for Directed Surveillance must believe that this is necessary. If they believe that it is necessary they must also believe that it is proportionate to the aim sought to be achieved by Directed Surveillance. When considering Proportionality the following factors are relevant:-

- Consideration of why the Directed Surveillance is proportionate to what it seeks to achieve.
- An analysis of what other options for gathering the information have been considered and that Directed Surveillance is necessary.
- 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 have been considered and why they were not implemented.
- Balancing the seriousness of the intrusion into the privacy of the subject of the operation (or any other person who may be affected) against the need for the activity in investigative and operational terms and consideration of the potential for Collateral Intrusion and why it is justified.
- The likelihood of acquiring any confidential or privileged material and the details of such material including material subject to legal privilege.

Fundamentally the use of covert surveillance must be proportionate to the issue being investigated.

Authorisation will not be proportionate if it is excessive in the circumstances of the case. Each action authorised should bring an expected benefit to the investigation or operation and should not be disproportionate or arbitrary. No activity will be considered proportionate if the information which is sought could reasonably be obtained by other less intrusive means. All surveillance should be carefully managed to meet the objective in question and must not be arbitrary or unfair.

6.5 When assessing proportionality the following points should be considered:

- 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 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.

6.5.1 The following should be considered as best working practices:

- Applications should avoid repetition of information
- Information contained in applications should be limited to that required by the relevant legislation
- Where it is foreseen that other agencies will be involved, these should be detailed in the application
- Authorisations should not generally be sought for activities already authorised following an application by the same or a different Council.

7 GRANTING AUTHORITY

7.1 Before granting authority for Directed Surveillance, the Authorising Officer must believe it is “necessary” in the circumstances of the particular ground only:

- To prevent or detect particular types of criminal offences;
- And these offences must be either punishable, whether on summary conviction or indictment, by a maximum term of at least 6 months or criminal offences related to the underage sale of alcohol and tobacco (it must meet the Directed Surveillance Crime Threshold).

Officers must satisfy themselves that what they are investigating is a criminal offence. If at any time during the investigation it becomes clear that the activity being investigated does not amount to a criminal offence or is a less serious offence which does not meet the threshold the Directed Surveillance Authorisation must be cancelled.

7.2 The test for necessary needs to include a consideration of why it is necessary to use Directed Surveillance. All other grounds identified on the forms must be deleted. Directed surveillance or the use of a CHIS will not be necessary if there are other means of obtaining the required evidence. Therefore consideration must be given to other means of obtaining this evidence before Directed Surveillance or the use of a CHIS is considered and this should be documented.

7.3 As well as believing that the authorisation is necessary, the Authorised Officer will also have to be satisfied that the proposed surveillance is proportionate to the objective.

This is not always an easy test to apply, but as a general rule:

- Covert surveillance should not be used where there are alternative means of obtaining the required information
- Unduly intrusive methods should not be used to obtain information about trivial contravention of offences.

7.4 In this context it is important to bear in mind the risk of Collateral Intrusion as well as the effect on the target.

7.5 An Authorising Officer must give their authorisation in writing. They should not be responsible for authorising operations in which they are directly involved. All authorisations must be recorded in the centrally retrievable record of authorisation.

7.6 A written application for Directed Surveillance should describe any conduct to be authorised and the purpose of the investigation. It should include:

- The reasons why the authorisation is necessary in this particular case and on what grounds
- The nature of the surveillance
- The identities (if known) of the subject of the surveillance
- A summary of the intelligence case and appropriate unique intelligence references where applicable

- An explanation of the information which is desired to be obtained as a result of the surveillance
- The details of any potential Collateral Intrusion and why this intrusion is justified
- The details of any Confidential Information which is likely to be obtained as a consequence of the surveillance
- The reasons why the surveillance is considered proportionate to what it seeks to achieve

A subsequent record should also be made of whether authorisation was given or refused, by whom and the time and date this happened.

- 7.7 Authorisation will cease to have effect (unless renewed or cancelled) at the end of a period of 3 months beginning on the day the Authorisation was granted.

8 COLLATERAL INTRUSION AND CONFIDENTIAL INFORMATION

- 8.1 Before authorising Directed Surveillance the Authorising Officer should take into account the risk of obtaining private information about persons who are not the intended subjects of the activity. This is known as Collateral Intrusion.
- 8.2 Measures should be taken, wherever practicable, to avoid or minimize unnecessary intrusion into the privacy of those who are not the subject of the Directed Surveillance. Where Collateral Intrusion is unavoidable, the activities may still be authorised providing this Collateral Intrusion is considered proportionate to the aims of the intended intrusion. Any Collateral Intrusion should be kept to the minimum necessary to achieve the objectives of the operation. All applications should include an assessment of the risk of any Collateral Intrusion and detail the measures taken to limit this to enable the Authorising Officer to properly consider the proportionality of the surveillance in light of the Collateral Intrusion.
- 8.3 The risk of Collateral Intrusion must be addressed on the application form. The reasons why Collateral Intrusion is unavoidable and the steps taken to minimise it, must also be set out on the form.
- 8.4 The form also requires the officer to consider the likelihood of acquiring Confidential Information to be assessed. Confidential Information consists of:
- matters subject to legal privilege (i.e. advice and instructions which are confidential as between legal advisors and their clients)
 - confidential personal information about a person's physical or mental health, or spiritual counselling
 - confidential journalistic material (i.e. information which a journalist has acquired on a confidential basis)
- 8.3 If confidential information is likely to be obtained, the Chief Executive is required to be the Authorising Officer.

- 8.4 Having satisfied themselves about all of the above matters, Authorising Officers must ensure that all the relevant sections of both copies of the application form are completed and signed. One copy of the completed and signed form should be retained within the department and the original is to go on the Central Register.

9 JUDICIAL APPROVAL

- 9.1 Under amendments made to the Act by The Protection of Freedoms Act 2012 the Council must now make an application to the Magistrates Court in order to obtain judicial approval. The Council must obtain an order approving the grant or renewal of an authorisation from a Justice of the Peace (JP) before it can take effect.
- 9.2 No activity permitted by the authorisation granted by the Authorising Officer may be undertaken until the approval of the Magistrates Court of that authorisation has been obtained. An Authorising Officer who intends to approve and application for the use of Directed Surveillance must immediately inform the Monitoring Officer and legal Services in order that the application can be made to the Magistrates Court.
- 9.3 The JP will consider whether or not the authorisation for the use of Directed Surveillance is necessary and proportionate. They will need to be satisfied that at the time the authorisation was granted or renewed or notice was given or renewed there were reasonable grounds for believing that the authorisation or notice was necessary and proportionate. If the Justice of the Peace is satisfied that the statutory tests have been met and that the use of Directed Surveillance is necessary and proportionate they will issue an order approving the grant or renewal of authorisation as described in the application.
- 9.4 A RIPA application to a JP is a legal proceeding; this application will be made by Legal Services on behalf of officers with sign off by the RIPA Monitoring Officer. Investigating officers may need to attend and should be prepared to present their evidence to court. The hearing will be a closed one. It is very important that all the evidence relied upon in the application is contained within the forms and supporting papers. They must make the case, it is not sufficient to provide oral evidence where the oral evidence given is not reflected in the papers. Oral evidence should support the documents and should not be used to expand them or present information or evidence that is not already in the papers.

10 DURATION, REVIEW, RENEWAL AND CANCELLATION OF AUTHORISATIONS

- 10.1 If at any time before an authorisation would cease to have effect, and the Authorising Officer considers it necessary for the authorisation to continue for the purpose for which it was given he/she may approve a renewal in writing for a further period of three months, beginning with the day when the authorisation would have expired but for the renewal.

Authorisations may be renewed more than once, provided they continue to meet the criteria for authorisation.

- 10.2 Regular reviews of all authorisations should be undertaken to assess the continuing need for Direct Surveillance. The results of the review should be recorded and retained for 3 years. Where Directed Surveillance involves a high level of Collateral Intrusion or where Confidential Information is likely to be obtained, reviews should be undertaken more frequently.
- 10.3 Where possible a review should be undertaken by the original Authorising Officer. Where, for whatever reason this is not possible, the review should be undertaken by an officer who would be entitled to grant a new authorisation in the same terms.
- 10.4 Any proposed or unforeseen changes to the nature or extent of the surveillance operation which may result in further or greater Collateral Intrusion must be brought to the attention of the Authorising Officer through a review. The Authorising Officer must consider whether the proposed changes are proportionate. Any changes must be highlighted at the next renewal.
- 10.5 Authorisations are of limited duration unless renewed. Their duration is 3 months.

A renewal must be authorised prior to the expiry of the original Authorisation but it runs from the expiry date and time of the original Authorisation. It should not be renewed until shortly before the original Authorisation period is due to expire. Authorisations may be renewed more than once if they are still considered necessary and proportionate and approved by a JP.

As renewals are subject to the approval by the Magistrates Court, Authorising Officers must advise the Monitoring Officer and Legal Services immediately when they are minded to grant a renewal.

Whilst applications for renewals should not be made until shortly before the original authorisations period is due to expire, officers must take into account factors which may delay the renewal process (the availability of the Authorising Officer, Legal Services and court listings).

- 10.6 Authorising Officers cannot simply allow an authorisation to run its course and expire. An authorisation must be cancelled if it is no longer needed, or if it no longer matches the basis on which it was granted. The need for cancellation may arise before an authorisation is due for review. It is, therefore essential that the investigating officer should draw the attention of the Authorising Officer to any relevant developments and for the Authorising Officer to pro-actively monitor the use being made of the authorisation.
- 10.7 Formal reviews must be carried out on the date(s) specified in the Authorisation, this should not be later than one month following authorisation. The relevant forms direct Authorising Officers to the matters to be considered on a review. In general terms the considerations are the same as those to be taken into account when first issuing an authorisation.
- 10.8 An authorisation may be renewed at any time before it expires. All applications for renewal of authorisations for Directed Surveillance should record:

- whether the renewal is the first renewal, or the dates of any previous renewal
- any significant changes to the information on which the authorisation was last issued or renewed
- the reasons why it is necessary to continue with the surveillance
- an estimate of the length of time the surveillance will continue to be necessary.
- the content and value to the investigation of the information so far obtained.
- the results of regular reviews of the investigation or operation.

10.9 Authorisations may be renewed more than once provided that they continue to meet the criteria for Authorisation. Any person who is entitled to grant a new Authorisation can renew an Authorisation. Authorisations must be cancelled if the Directed Surveillance as a whole no longer meets the criteria upon which it was authorised.

10.10 All reviews, cancellations and renewals must be recorded on the relevant forms, which should be completed in duplicate. The forms direct Authorising Officers towards the relevant considerations to be taken into account.

10.11 Reviews, renewals and cancellations should be carried out by the Authorised Officer who first issued the relevant Authorisation. The details of any renewal should be centrally recorded.

10.12 Authorising Officers are required to ensure that:

- Authorisations have been properly cancelled at the end of the period of surveillance
- Surveillance does not continue beyond the authorisation period
- Current authorisations are regularly reviewed
- Ensure the timely destruction of the results of surveillance operations

11. CENTRAL REGISTER

11.1 A centrally retrievable record of all authorisations should be held by the Council and updated whenever an Authorisation is granted, renewed or cancelled. This information must be held for three years from the end of each Authorisation. If there is reason to believe that any of the information obtained as a result of the authorisation might be relevant to further civil or criminal proceedings then this should not be destroyed but should be retained in accordance with established disclosure requirements. The record should be made available to the relevant Commissioner or Inspector from the Office of Surveillance Commissioners upon request.

11.2 The record must contain the following information:

- The date that the Authorisation was given
- The name and position of the Authorising Officer
- The unique reference number (URN) of the investigation, its title and a brief description of the names and subjects (if known)

- The details of the attendance at the Magistrates, the date of the attendance, the determining Magistrate, the decision of the court and the time and date of the decision
- The date of any reviews
- If the Authorisation has been renewed when it was renewed, who authorised the renewal (name and position of the officer)
- Whether the investigation is likely to result in obtaining any Confidential Information
- The date the Authorisation was cancelled.
- Where the application is refused, the grounds or reasons for refusal given by the Authorising Officer or the Justice of the Peace.

11.3 The following documentation should also be centrally retrievable for at least three years following the end of the Authorisation:

- A copy of the Application and a copy of the Authorisation with any supplementary documentation and notification of the approval given by the Authorising Officer.
- A record of the period over which the surveillance has taken place
- The frequency of the reviews prescribed by the Authorising Officer
- A record of the results of each review of the Authorisation
- A copy of any renewal of an Authorisation with any supporting documents submitted when the renewal was requested.
- Date and time when any instruction to cease surveillance was given
- A copy of the order approving or otherwise the grant for renewal of an Authorisation from a JP.

11.2 The Central Register is kept by the RIPA Monitoring Officer, who will also retain an excel spreadsheet of the Central Register. The RIPA Monitoring Officer is responsible for maintaining the Central Register.

12 KEEPING RECORDS

12.1 Quite apart from the statutory requirement that Authorisations should be in writing, there is self-evidently a need to keep proper records so that the protection of the Act can be relied upon in any legal proceedings if needs be.

12.2 As outlined earlier, two copies of every Authorisation, review, renewal or cancellation should be completed. One should be retained by the department and the original sent to the RIPA Monitoring Officer, to be put onto the Central Register. The Authorising Officer is responsible personally for ensuring that copies of those documents are sent to the RIPA Monitoring Officer, within one week.

12.3 Forms should be handed over personally or sent in a sealed envelope marked "Private and Confidential".

- 12.4 The handling, storage and destruction of material obtained through an operation must be done so in accordance with the requirements of the General Data Protection Regulation and the Council's policies.
- 12.5 Material gathered under RIPA through Directed Surveillance which has been properly Authorised can be used to further other investigations.
- 12.6 Each service department undertaking Directed Surveillance must ensure that adequate arrangements are in place for the secure handling, storage and destruction of material obtained through the use of covert surveillance.

13 HEALTH AND SAFETY

- 13.1 Authorising Officers are reminded of the need to ensure that the health and safety implications of undertaking investigations are taken into account.
- 13.2 This, of course, applies whether or not Covert Surveillance is taking place, but in certain circumstances the level of risk to employees may be increased by covert activity. The risk must be properly assessed and steps taken to minimise it.

14 WORKING WITH/THROUGH OTHER AGENCIES

- 14.1 In certain circumstances it may be necessary for the Council to work with other agencies on a surveillance operation. When this is the case the Council should try to avoid duplication of Authorisations. Where there has been duplication this will not affect the lawfulness of the activities conducted.
- 14.1 When another agency has been instructed on behalf of the Council to undertake any action under RIPA, this policy and the forms in it must be used (as per normal procedure) and the agency advised or kept informed, as necessary, of the various requirements.
- 14.3 When another agency (e.g. the Police, Customs and Excise, Inland Revenue etc); -
- wish to use the Council's resources (e.g. CCTV) that agency must use its own RIPA procedures and before an officer agrees to allow the Council's resources to be used by any agency they must obtain a copy of that agency's RIPA form for the record (a copy of which must be passed to the RIPA Monitoring Officer for the Central Register).
 - wish to use the Council's premises for their own RIPA action the officer should, normally co-operate with the same, unless there are security or other good operational or managerial reasons as to why the City Council's premises should not be used for the agency's activities. Suitable insurance or other appropriate indemnities may be sought, if necessary, from the agency. In such cases the Council's own RIPA forms should not be used as the Council's role is simply to assist in the RIPA activity.

- 14.4 If the Police or other agency want to use the Council resources for general surveillance, as opposed to specific RIPA operations, an appropriate letter requesting the proposed use, extent of remit, duration, who will be undertaking the general surveillance and the purpose of it must be obtained from the Police or other Agency before any Council resources are made available for the proposed use. If in doubt please consult with the RIPA Monitoring Officer or the Legal Services Manager at the earliest opportunity.

15 TRAINING

- 15.1 The RIPA Monitoring Officer should ensure that all officers who are required to undertake investigations receive relevant RIPA training and appropriate refresher training. However, any investigating officer who feels that they need further training or refresher training should raise this with their supervisor at the earliest opportunity. It is the responsibility of all investigating officers to ensure that they keep up to date with any developments or changes to RIPA. In house training can be sought by contacting Legal Services.

16 SENIOR RESPONSIBLE OFFICER (SRO)

- 16.1 The Council has appointed the City Solicitor as the SRO who is responsible for the following:-
- The integrity of the process in place within the Council to authorise Directed Surveillance.
 - For ensuring that all Authorising Officers are of an appropriate standard in light of any recommendations in the inspection reports prepared by the Office of the Surveillance Commissioner.
 - Compliance with Part II of the 2000 Act, Part III of the 1997 Act and with this code;
 - Engagement with the Commissioners and Inspectors when they conduct their inspections, and
 - Address any post inspection action plans recommended or approved by a Commissioner.

17 REVIEW AND PUBLICATION

- 17.1 The Policy will be reviewed annually and any changes presented to the Executive on an annual basis to comply with the Codes, the legislation and to ensure that it is being used consistently. It may be amended from time to time in light of any developments in the law and experience of the operation to ensure that it remains fit for purpose. Staff are encouraged to raise any issues they may have with the Legal Services Manager.

- 17.2 The Executive shall review the Council's use of RIPA annually in accordance with the Code of Practice on Covert Surveillance and Property Interference.

18 SOCIAL MEDIAL

- 18.1 It is important to be aware that the use of social media in an investigation could, depending on how it is used and the type of information likely to be obtained, constitute covert activity that requires authorisation under RIPA.
- 18.2 Researching 'open source' material would not require authorisation but return visits to these sites in order to build up a profile could change this position and may constitute Directed Surveillance and need an authorisation. As such before any integration of social media is undertaken a social media access request form (attached at Appendix B) must be completed and signed by one of the Council's solicitors.
- 18.3 Officers should not use false personae (a false social media profile or handle) or their own social media to undertake any authorised social media searches. The Council's own social media accounts must be used for this.

19 ERRORS AND BREACHES OF RIPA

- 19.1 An error must be reported if it is a Relevant Error (as defined under section 231(9)_RIPA. An example of Relevant Errors occurring would include circumstances where Surveillance or the use of a CHIS has taken place without the lawful authority.
- 19.2 All Relevant Errors made by the Council of which it is aware must be reported to the IPC as soon as reasonably practicable and no later than 10 working days.
- 19.3 Once the error has been identified, the Council must take steps to confirm the fact of an error as quickly as it is reasonably practicable to do so. Where it is subsequently confirmed that an error has occurred and that the error is notified to the Commissioner, the Council must also inform the commissioner of when it was initially identified that an error may have taken place.
- 19.4 A full report must be sent to the Investigatory Powers Commissioner as soon as reasonably practicable in relation to any relevant error, including details of the error. The report should include information on the cause of the error, the amount of surveillance conducted and any material obtained or disclosed, any collateral intrusion, any analysis of the action taken, whether any material has been retained or destroyed and a summary of the steps taken to prevent recurrence.
- 19.5 If the Investigatory Powers Commission considers the error to be a serious error and that it is in the public interest for the person concerned to be informed of the error, they must inform them. An error is a serious error where it is considered to have caused significant prejudice to the person concerned. When deciding whether it is in the public interest for the person concerned to be informed of the error, the Commissioner must in particular consider:

- The seriousness of the error and its effect on the person concerned
- The extent to which disclosing the error would contravene the public interest and be prejudicial to: national security, the prevention or detection of serious crime, the economic well-being of the United Kingdom or the continued discharge of function of any of the security and intelligence services.

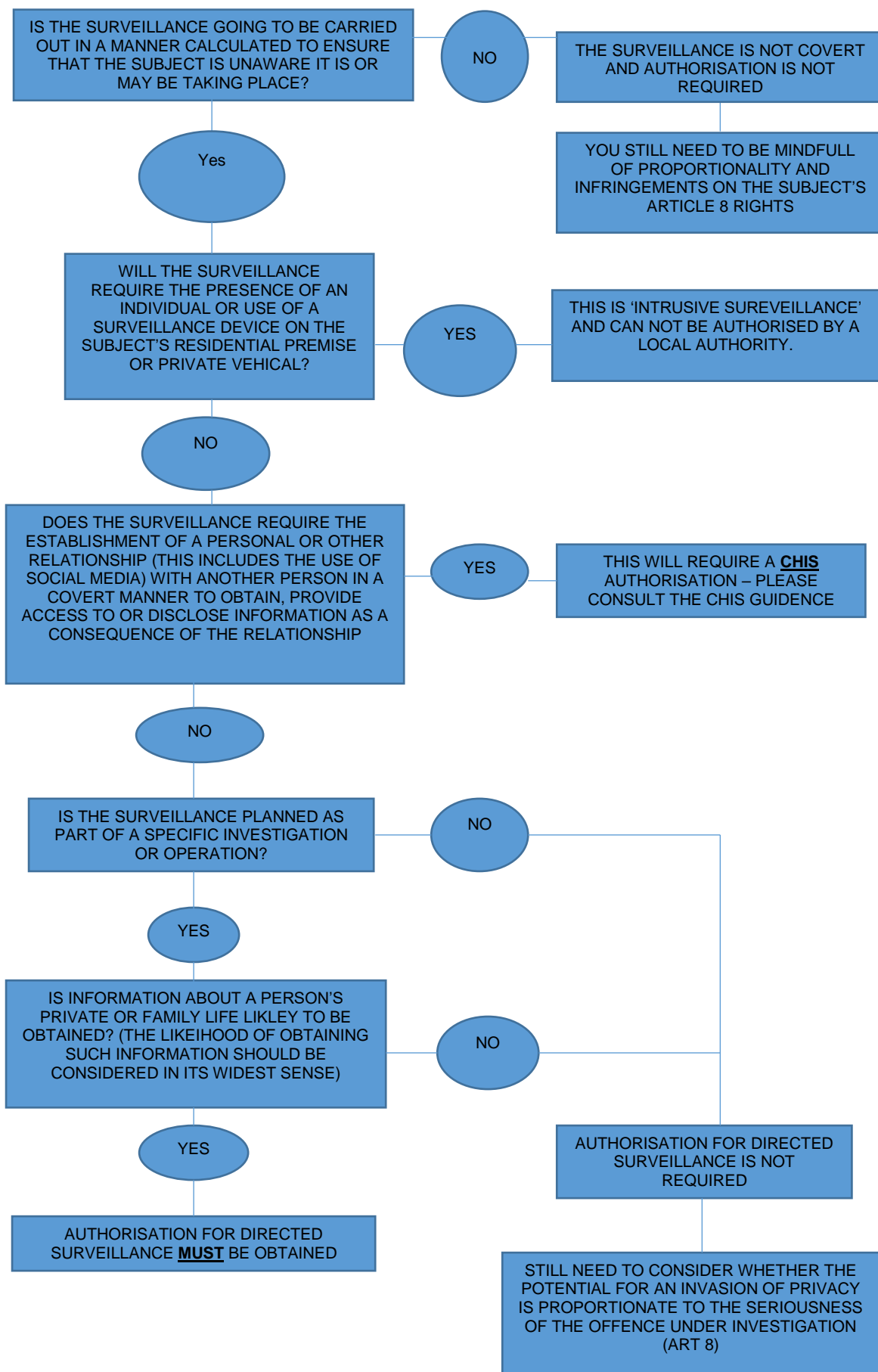
19.6 When informing a person of a Serious Error, the Commissioner must inform the person of any rights that they may have to apply to the Investigatory Powers Tribunal and provide such details of the error as the Commission considers to be necessary for the exercise of these rights.

19.7 Evidence gathered where RIPA has not been complied with may not be admissible in Court. Any perceived breach of this policy or the RIPA procedures should be reported to the Monitoring Officer. Where the breach relates to an active court case this should also be raised with the Solicitor instructed in this case. These should be reported as soon as they come to light.

20 OTHER SOURCES OF ADVICE

20.1 Detailed guidance on the operation of RIPA is available in Codes of Practice published by the Home Office and available on their website www.homeoffice.gov.uk. Advice is also available from the RIPA Monitoring Officer and Legal Services.

IS A DIRECTED SURVEILLANCE AUTHORISATION REQUIRED?



APPENDIX A

GUIDANCE TO STAFF ON USE OF COVERT HUMAN INTELLIGENCE SOURCES

This Guidance **must** be read in conjunction with the City of Lincoln Council's Policy on Regulation of Investigatory Powers Act 2000 (RIPA)

1. GENERAL POLICY

- 1.1 Please refer to the policy on RIPA for an explanation of the Regulation of Investigatory Powers Act 2000 and how this affects the Council.
- 1.2 The procedure and guidance set out in this Guidance is based on the provisions of RIPA, the Home Office Codes of Practice on the use of CHIS and the Home Office Guidance to Local Authorities in England and Wales on the Judicial Approved Process for RIPA and the Crime Threshold for Directed Surveillance. When implementing any procedure or policy contained within this guidance the officer and the Authorising Officer must ensure that there is compliance with the Home Office Codes of Practice on CHIS. This can be found at:

<https://www.gov.uk/government/publications/covert-surveillance-and-covert-human-intelligence-sources-codes-of-practice>
- 1.3 There is a Flowchart at the end of this Policy to summarise the requirements of RIPA.
- 1.4 To be clear, there is no use of a CHIS merely because a person offers information to the Council that may be material to the investigation of an offence, but there would be if the authority asks that person to obtain further information. If a person has a relationship with another person which is not established or maintained for a covert purpose, the fact that he or she does in fact covertly disclose information to the local authority will not require an authorisation and that person will not be a CHIS.
- 1.5 It is not only a person outside of the employment of the Council who may be used as a source. If a member of staff is intended to be used as a CHIS, appropriate training must be given to that staff member.

2. COVERT HUMAN INTELLIGENCE SOURCES

- 2.1 A person is a "covert human intelligence source" (CHIS) if:
 1. They establish or maintain a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within 2) or 3)
 2. They covertly use such a relationship to obtain information or to provide access to any information to another person; or
 3. They covertly disclose information obtained by the use of such a relationship or as a consequence of the existence of such a relationship

- 2.2 In this context, a source of information acts covertly if he or she establishes and maintains a relationship which is conducted in a manner which is calculated to ensure that the other person is unaware that the relationship is being used for the purposes listed above.
- 2.3 A relationship that is used covertly, and the information obtained is disclosed covertly, if and only if the relationship is used or the information is disclosed in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the use or disclosure in question. Where a person acting in their role for the Council is intending to engage with members of the public online without disclosing their identity or purpose, a CHIS authorisation may be needed and the Council's RIPA Policy should be consulted and the Social Media Access form should be used.
- 2.4 When applied to a relationship "established" means "set-up." It does not require, as "maintains" does, endurance over any particular period. Repetition is not always necessary to give rise to a relationship but whether or not a relationship exists depends on all the circumstances including the length of time of the relationship and the nature of any covert activity.
- 2.5 The use of a CHIS involves inducing, asking or assisting a person to engage in the conduct of a CHIS or to obtain information by means of the conduct of such a CHIS.
- 2.6 RIPA regulates the "conduct and use" of covert human intelligence sources. An officer therefore requires authority both to act as a CHIS in person and to use anyone else (e.g. a member of the public or private investigator) as a CHIS.
- 2.7 Officers should carefully consider whether any potential human source of information might be a CHIS and if so to secure the necessary authority in accordance with this guidance and accompanying documents. It is worth noting that a person meets the CHIS criteria even if they volunteer information to an officer. Officers should ensure that they are familiar with the Home Office Code of Practice on the use of Covert Human Intelligence Sources and also seek advice from Legal Services if necessary.
- 2.8 There are separate forms to be completed for the use of a CHIS and for reviewing, renewing and cancelling the use of a CHIS. These need to be completed by the officer and signed by the Authorising Officer. These forms and guidance on them can be here:

<https://www.gov.uk/government/publications/application-for-the-use-of-covert-human-intelligence-sources-chis>

<https://www.gov.uk/government/publications/reviewing-the-use-of-covert-human-intelligence-sources-chis>

<https://www.gov.uk/government/publications/renewal-of-authorisation-to-use-covert-human-intelligence-sources>

<https://www.gov.uk/government/publications/cancellation-of-covert-human-intelligence-sources-chis>

3. AUTHORISING THE USE OF A CHIS

- 3.1 The need to make use of a CHIS is likely to be even more infrequent than for Direct Surveillance. It involves additional considerations and procedures. Authority to authorise the conduct or use of a CHIS can only be granted by the Authorising Officer as outlined in the Policy. The Council has resolved that this must be in conjunction with the RIPA Monitoring Officer.
- 3.2 Before authorising the conduct or use of a CHIS the Authorising Officer will not only need to take into account the general considerations as outlined in the main guidance on RIPA but will also need to be satisfied that the appropriate arrangements are in place for:
- The management and oversight of a CHIS by a designated officer who will also have responsibility for the CHIS's security and welfare
 - Record keeping
 - Ensuring that any records disclosing the identity of the CHIS are only made available on a strict "need to know" basis.
- 3.3 Vulnerable individuals and juveniles should only be used as sources in the most exceptional circumstances and special rules apply in these cases. Only the Chief Executive may authorise use of a juvenile or vulnerable CHIS.

"Vulnerable individuals" are defined as people in need of community care services by reason of physical, mental or other disability, age or illness and who are unable to take care of themselves or protect themselves against significant harm or exploitation.

"Juveniles" are persons under 18 years of age. Special safeguarding rules apply to the use or conduct of juveniles as sources. Under no circumstance should the use or conduct of a CHIS under 16 be authorised to give information on their parents or any person who has parental responsibility for them. Any authorisation for the use or conduct of a juvenile CHIS will only be for 1 month's duration as opposed to 12 months for all other CHIS.

Those authorised to grant the use of CHIS's will be extremely reluctant to issue authorisations for the use of vulnerable individuals or juveniles.

Where a CHIS is under the age of 16 years old the Council must ensure that an appropriate adult is present at all meetings between the juvenile source and any person representing the investigating authority.

- 3.4 Before authorising the use or conduct of a source, the Authorising Officer should take into account the risk of interference with the private and family life of persons who are not the intended subjects of the CHIS activity. This is known as Collateral Intrusion, a definition of Collateral Intrusion can be found in the RIPA Guidance above.

- 3.5 Measures should be taken, wherever practicable, to avoid or minimize interference with private and family life of those who are not the intended subjects of the CHIS activity. Where Collateral Intrusion is unavoidable, the activities may still be authorised providing this Collateral Intrusion is considered proportionate to the aims of the intended intrusion. Any Collateral Intrusion should be kept to the minimum necessary to achieve the objectives of the operation. All applications should include an assessment of the risk of any Collateral Intrusion and detail the measures taken to limit this to enable the Authorising Officer to properly consider the proportionality of the operation in light of the Collateral Intrusion.
- 3.6 The Authorising Officer who grants an authorisation should, where possible, be responsible for considering subsequent renewals of the Authorisation and any relevant security and welfare issues. The Authorising Officer will stipulate the frequency of formal reviews and The Controller should maintain an audit of case work sufficient to ensure that the use or conduct of the CHIS remains within the parameters of the Authorisation. This does not prevent additional reviews being conducted in response to the changing circumstances of an operation.
- 3.7 In some cases a single Authorisation may cover more than one CHIS. However it is only likely to be appropriate in situations where the activities to be authorised, the subjects of the operation, the interference with the private and family life, the likely Collateral Intrusion and the environmental or operational risk assessments are the same.
- 3.8 As of 1st November 2012 the Council now has to obtain an order from a Justice of the Peace (JP) approving the grant or renewal of any Authorisation for the use of CHIS before Authorisation can take effect and the operation be carried out. This is similar to the procedure outlined in the RIPA Policy and Legal Services advice is required to undertake this application.

The JP will consider whether or not the Authorisation for the use of a CHIS was necessary and proportionate. They will need to be satisfied that at the time the authorisation was granted or renewed or notice was given or renewed there was reasonable grounds for believing that the Authorisation or notice was necessary and proportionate. If the Justice of the Peace is satisfied that the statutory tests have been met and that the use of a CHIS is necessary and proportionate they will issue an order approving the grant or renewal of Authorisation as described in the application.

- 3.9 Authorisation for an adult CHIS (unless renewed) is for 12 months from the date of approval by the JP.
- 3.10 Regular reviews of the authorisations should be undertaken by the Authorising Officer to assess whether it remains necessary and proportionate to use a CHIS and whether the authorisation remains justified. The review should include:
- The use made of the CHIS during the period authorised
 - The tasks given to the CHIS
 - The information obtained from the CHIS

- If appropriate to the Authorising Officer's remit, the reasons why executive action is not possible at this stage.

Results of the review must be retained for at least 5 years. In each case it is up to the Authorising Officer to determine the frequency of a review. This should be as often as is considered necessary and proportionate but should not prevent reviews being conducted in response to changing circumstances. Where there are any significant or substantive changes to the nature of the operation, consideration should be given as to whether it is necessary to apply for a new authorisation.

- 3.11 CHIS authorisations can be renewed on more than one accession if necessary and provided that they continue to meet the criteria for authorisation. All renewals are subject to authorisation from a Justice of the Peace.

4. Necessity and Proportionality

- 4.1 The Act requires that the Authorising Officer (and then the JP) must believe that an Authorisation for the use or conduct of a CHIS is necessary and proportionate in the circumstances of the particular case for the purpose of preventing or detecting crime or of preventing disorder.
- 4.2 If it decides that the use of a CHIS is necessary the person granting the authorisation must then believe that the use is proportionate to what is sought to be achieved by the conduct and use of that CHIS. This involves balancing the intrusiveness of that CHIS on the target and others who might be affected by it against the need for the CHIS to be used in investigative and operational terms.
- 4.3 The use of a CHIS will not be proportionate if it is excessive in the circumstances of the case. Each action authorised should bring an expected benefit to the investigation or operation and should not be disproportionate or arbitrary. No activity will be considered proportionate if the information which is sought could reasonably be obtained by other less intrusive means.
- 4.4 When considering this the following factors are relevant:-
- 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.

Fundamentally the use of covert surveillance must be proportional to the issue being investigated

The test for necessary needs to include a consideration of why it is necessary to use covert surveillance

- 4.5 The use of a CHIS should be carefully managed to meet the objective in question and sources must not be used in an arbitrary or unfair way.

5.0 **Special Considerations for authorisation**

- 5.1 Care should be taken in cases where the subject might reasonably expect a high level of privacy or where Confidential Information is involved. Please refer to the RIPA Policy for more detailed guidance on Confidential Information. Confidential Information could be legally privileged information, or information which carries medical or journalistic confidentiality. In cases where legally privileged material or other Confidential Information might be acquired the use or conduct of a CHIS can only be authorised by the Authorising Officer.

6.0 **Officers Required**

- 6.1 Two officers are required for the management of a CHIS: The Handler who has day-to-day responsibility and will be the contact for receipt of information, and The Controller who has general oversight.
- 6.2 Tasking the CHIS is the responsibility of The Handler with reference to The Controller. It is important to ensure that Authorisation is not drawn up so narrowly that new authorisation must be sought each time the CHIS is tasked however it can be difficult to predict the needs of an operation at the time of Authorisation and where an operation changes officers must ensure that the existing Authorisation is sufficient. Where it is not it should be cancelled and new Authorisation should be sought.
- 6.3 The Handler will have the day to day responsibility for:
- Dealing with a CHIS on behalf of the authority concerned
 - Directing the day to day activities of the CHIS
 - Recording the information supplied by the CHIS
 - Monitoring the CHIS's security and welfare.
- 6.4 The Controller will be responsible for the management and supervision of the Handler and the general use and oversight of the CHIS.
- 6.5 Where the authorisation is for the use or conduct of a CHIS whose activities benefit more than a single public authority, responsibilities for the management and oversight of that CHIS may be taken up by one authority or can be split between the authorities. The Controller and Handler of a CHIS need not be from the same authority. The public authorities involved must lay out in writing their agreed oversight arrangements.

7.0 Keeping Records

- 7.1 Record keeping must be in accordance with The Regulation of Investigatory Powers (Source Records) Regulation S.I 2000; No 2725. Relevant officers will have their attention drawn to those specific requirements whenever an authorisation is issued and specific advice given as to how they should be complied with in the circumstances of the case. Consideration should be given to the management of any requirement to disclose information tending to reveal the existence or identity of a CHIS to or in court.
- 7.2 A centrally retrievable record of all authorisations should be maintained. These records need only contain the name, code name, or unique identifying reference of the CHIS, the date the Authorisation was granted, renewal or cancellation and an indication as to whether the activities were self-authorised. These records should be made available to the relevant Commissioner or Inspector from the Office of Surveillance Commissioners upon request.
- 7.3 These records should be retained for a period of at least five years from the ending of the authorisation to which they relate. In retaining records consideration must be given to the duty of care owed to the CHIS, the likelihood of future criminal or civil proceedings relating to information supplied by the CHIS or activities undertaken and the responsibilities and obligations under the General Data Protection Regulations. All records kept should be maintained in such a way so as to preserve the confidentiality and prevent disclosure of the identity of the CHIS and the information provided by the CHIS.
- 7.4 Records or copies of the following, as appropriate, should be kept for at least five years:
- A copy of the authorisation together with any supplementary documentation and notification of the approval given by the Authorising Officer
 - A copy of any renewal of an Authorisation, together with the supporting documentation submitted when the renewal was requested
 - The reason / reasons why the person renewing an Authorisation considered it necessary to do so.
 - Any risk assessment made in relation to a CHIS
 - The circumstances in which tasks were given to the CHIS
 - A record of the results of any reviews of the Authorisation
 - The reasons, if any, for not renewing the Authorisation
 - The reasons for cancelling an Authorisation
 - The date and time when any instruction was given by the Authorising Officer that the conduct or use of a CHIS must cease
 - A copy of the decision by an Ordinary Commissioner on the renewal of an authorisation beyond 12 months.
- 7.5 There must be arrangements in place for the secure handling, storage and destruction of material obtained through the use or conduct of a CHIS. This will be done in compliance with the General Data Protection Regulations and the Council's policies.

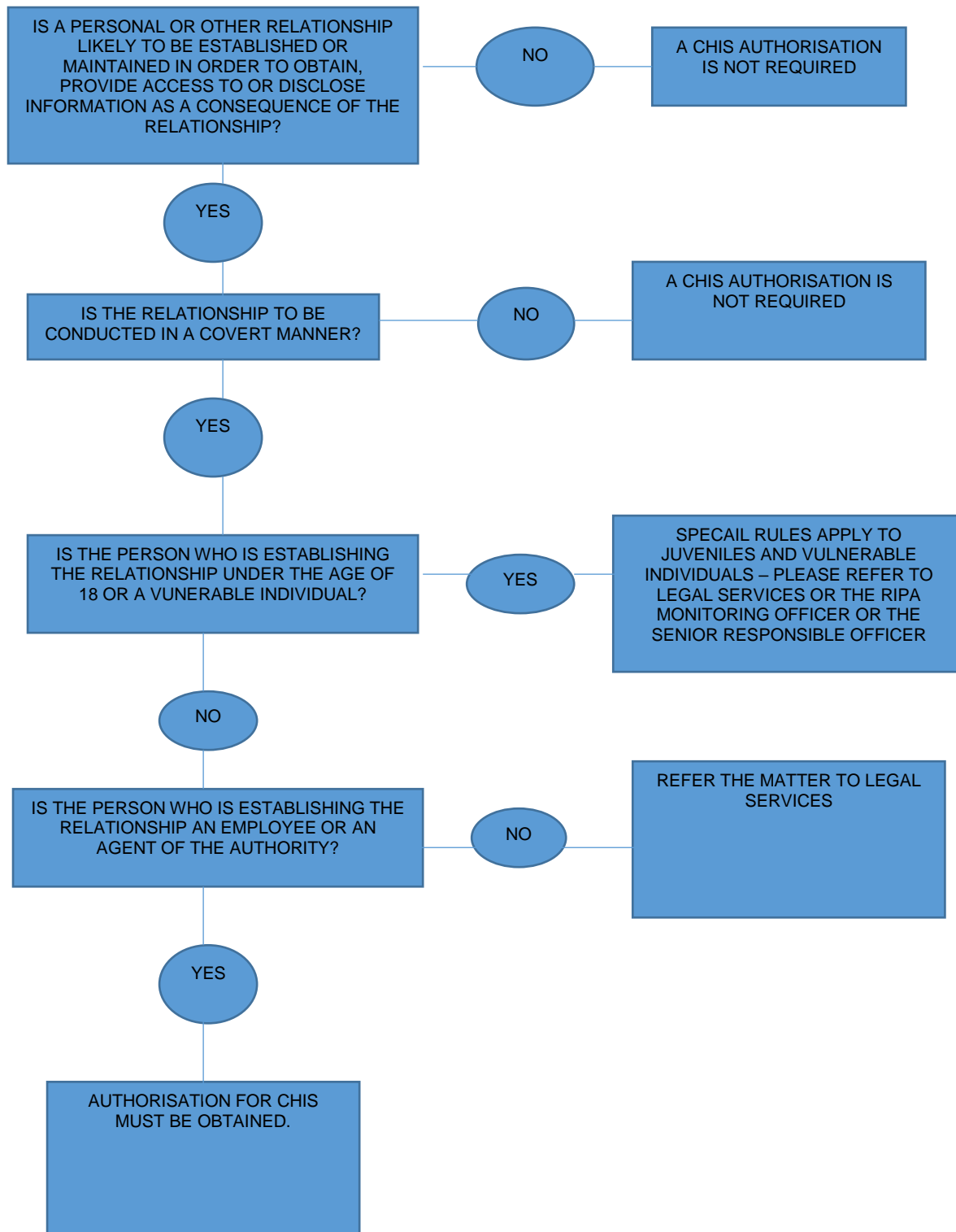
8.0 **Security and Welfare**

- 8.1 Before authorising the use or conduct of a CHIS the Authorising Officer must ensure that a risk assessment is carried out to determine the risk to the CHIS of any tasking and the likely consequences should the role of the CHIS become known. The ongoing security and welfare of the CHIS must be considered once the operation has terminated. This is to be carried out by the Corporate Health and Safety team.
- 8.2 The Handler is responsible for bringing to the attention of the CHIS Controller any concerns about the personal circumstances of the CHIS insofar as they might affect:
- The validity of the risk assessment
 - The conduct of the CHIS
 - The safety and welfare of the CHIS

Where appropriate, concerns about such matters must be brought to the attention of the Authorising Officer and a decision must then be taken on whether or not to allow the Authorisation to continue.

- 8.3 The Council recognises a duty of care to its covert sources and it is important that a risk assessment and management approach is taken with regard to the welfare of the source. The risk to the source may not only be physical but also psychological, for example stress.

IS A CHIS AUTHORISATION REQUIRED?



APPENDIX B

REQUEST TO ACCESS SOCIAL MEDIA FOR INVESTIGATIVE PURPOSES

FOR GUIDENCE FILLING OUT THIS FORM PLEASE REFER TO THE RIPA SOCIAL MEDIA GUIFDENCE ON NETCONSENT.

Social Media are “websites and applications which enable users to create and share content or to participate in Social Networking” For the avoidance of doubt this includes social networking sites.

THIS FORM ONLY ALLOWS YOU TO ACESS SOCIAL MEDIA SITES VIA COMMUNICATIONS, IT DOES NOT GIVE YOU AUTHORITY TO ACCESS THEM THOUGH YOUR OWN PERSONAL ACCOUNTS OR PERSONAL DEVICES.

LEAD OFFICER

SERVICE MANAGER

WHICH SOCIAL MEDIA / NETWORKING SITE DO YOU WISH TO ACCESS?

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.....

DOES THE TARGET HAVE PRIVACY SETTINGS APPLIED ON THESE SITES? Y / N / UNKNOWN

NATURE AND PURPOSE OF INVESTIGATION:

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.....

IF YOU ARE INVESTIGATING AN OFFENCE DOES THE OFFENCE CARRY A 6 MONTH CUSTODIAL SENTENCE OR LONGER IF THE SUSPECT IS CONVICTED? Y / N

IF YES, WHAT IS THE MAXIMUM CONVICTION FOR THE OFFENCE?

.....

WHAT INFORMATION DO YOU HOPE TO FIND ON THE SITE?

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.....
IT MUST BE PROPORTIONATE TO BREACH AN INDIVIDUAL'S ARTICLE 8 RIGHT,
PLEASE EXPLAIN WHY YOU CONSIDER THIS BREACH TO BE PROPORTIONATE FOR
THE PURPOSES OF THIS INVESTIGATION:

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OUTLINE THE RISK (IF ANY) OF COLLATERAL INTRUSION?

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COMMENTS FROM LEGAL SERVICES

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SOLICITOR.....

DATE

***PLEASE RETAIN A SIGNED COPY OF THIS FORM FOR YOUR FILE.
COMMUNICATIONS WILL ALSO RETAIN A COPY OF THIS FORM.***

ONCE THIS FORM HAS BEEN SIGNED BY LEGAL SERVICES IT WILL ENTITLE YOU TO VIEW A SUSPECTS SOCIAL MEDIA PAGE OR SOCIAL NETWORKING PAGE ONCE (VIA COMMUNICATIONS) AND RECORD YOUR FINDINGS.

SHOULD THE CASE GO TO COURT YOU MAY NEED TO VISIT THE SOCIAL MEDIA / SOCIAL NETWORK SITE AGAIN TO UPDATE YOUR FINDINGS, THIS FORM AUTHOMATICALLY ENTITLES YOU TO ACCESS THE SAME SOCIAL MEDIA OR SOCIAL NETWORKING SITED ONCE MORE PRIOR TO COURT IN ORDER TO UPDATE YOUR INFORMATION AND GIVE THE COURT CURRENT DETAILS. THE SITE CAN ONLY BE ACCESSED A SECOND TIME FOR THE PURPOSES OF A COURT HEARING AND YOU MUST ACCESS THE SOCIAL MEDIA / SOCIAL NETWORKING SITES THOUGH COMMUNICATIONS.

IF YOU NEED TO ACCESS THIS SITE MORE THAN TWICE THIS COULD BE DIRECTED SURVEILLANCE AND YOU WILL NEED TO SPEAK TO A MEMBER OF LEGAL SERVICES AS YOU MAY REQUIRE RIPA AUTHORISATION FROM THE COURTS BEFORE YOU CAN DO THIS.

I CONFIRM I HAVE READ AND UNDERSTOOD THE ABOVE

.....

DATE

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REGULATION OF INVESTIGATORY POWERS ACT 2000

POLICY

Document Control

Organisation	City of Lincoln Council
Title	Regulation of Investigatory Powers Act 2000 Policy
Author – name and title	Becky Scott, Legal Services Manager
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Document Amendment History

Revision	Originat or of change	Date of change	Change description
1 st Revision	Becky Scott	May 2016	Updating officer details from previous policy and including the CHIS guidance in the policy rather than a separate document
2 nd Revision	Becky Scott	July 2018	No changes however reported to Executive
3 rd Revision	Becky Scott	January 2021	Changes to authorisations, incorporates technological advances and how to report errors along with some administrative changes

1. GENERAL

- 1.1 The Regulation of Investigatory Powers Act 2000 (RIPA) came into force on the 25th September 2000. The main purpose of the Act is to ensure that individual's rights are protected whilst allowing law enforcement and security agencies to do their jobs effectively and act proportionately.
- 1.2 Under Section 28 and 29 of RIPA, it has implications for all staff who investigate suspected criminal offences and other breaches of regulations for which the Council is responsible in regards to Directed Surveillance and Covert Human Intelligence Sources (CHIS).
- 1.3 This Policy includes the attached 'Guidance to Staff on Use of Covert Human Intelligence Sources (CHIS)' (Appendix A). This together with the Policy outlines the procedures for obtaining authorisations and together these explain:
 - the purpose of the Act in relation to the Council's functions
 - the circumstances which it applies to
 - which authorities can use the powers
 - who should authorise each use of power
 - the use that can be made of the material gained
 - how to make sure that it is complied with
 - functions of the Central Register
 - process for authorisations
 - details for authorisations
 - independent judicial oversight
 - a means of redress for the individual

The use and conduct of a CHIS will be referred to generally in this Policy, and where appropriate, it is important that officers familiarise themselves with the more detailed Guidance to Staff on use of a CHIS in Appendix A.

- 1.4 The policies and procedures set out in this Policy replace all those previously in circulation within the Council. This Policy can also be found on Netconsent.
- 1.5 The City of Lincoln Council is NOT empowered to undertake:
 - Intrusive Surveillance or
 - Entry onto or interference with property or wireless telegraphy
- 1.6 The Policy is based on the provisions of RIPA, the Home Office Codes of Practice on Covert Surveillance and Property Interference and the use of CHIS as well as the Home Office Guidance to Local Authorities in England and Wales on the Judicial Approved Process for RIPA and the Crime Threshold for Directed Surveillance. When implementing this Policy, the Officer and the Authorising Officer must ensure

that there is compliance with the Home Office Codes of Practice on CHIS and covert surveillance. This can be found at:

<https://www.gov.uk/government/publications/covert-surveillance-and-covert-human-intelligence-sources-codes-of-practice>

- 1.7 The provisions of RIPA do not cover authorisations for the use of overt CCTV surveillance systems. Members of the public are aware that such systems are in use for their own protection and to prevent crime. However authorisation may be required if a CCTV camera is to be used for surveillance as part of a specific investigation or operation otherwise than as an immediate reaction to events. In such circumstances authorisation may either be required by the Council's Authorising Officer or it may come from the police. Where authorisation is given by the police then a record of this authorisation must be kept and officers must ensure that any surveillance is kept within the terms of this authorisation.
- 1.8 The Covert Surveillance Codes of Practice has kept pace with technology and now acknowledges that Drones can now be used to conduct covert surveillance. Any Council Officers using a drone as part of their duties must adhere to this policy and the ICO's CCTV code of Practice or any Civil Aviation Authority Regulations.
- 1.9 There is a Flowchart at the end of this Policy to summarise the requirements of the RIPA.

2.0 THE PURPOSE OF RIPA

- 2.1 Many teams in the Council find themselves having to undertake investigations of some kind or another from time to time. For some officers it is the essence of their job.
- 2.2 In the vast majority of cases, investigations can be carried out overtly, i.e. in circumstances where the person under investigation is made aware that he or she is being investigated. Investigations will be carried out overtly wherever possible. Where an operation can be carried out overtly RIPA does not apply.
- 2.3 However, investigations have the potential to interfere with an individual's human rights, particularly those under Article 8 of the European Convention of Human Rights which provides that "everyone has the right to respect for his private and family life" And where there is likely to be an infringement on these rights, it must be considered necessary and proportionate.
- 2.4 Article 8 goes on to say that public authorities (which the Council is one) must not interfere with this right unless such interference is;
 - (a) In accordance with the law
 - (b) Necessary for certain specified purposes, including public safety, the prevention of disorder and crime, for the protection of health and morals and the protection of the rights and freedom of others.

Local authorities are required to respect the private and family life of citizens, their homes and correspondence in accordance with the Human Rights Act 1998. This is a qualified right where interference is permissible where it is necessary and proportionate and carried out in accordance with the law. RIPA authorisations amount to an approved interference.

- 2.5 Section 6 of the Human Rights Act 1998 makes it unlawful for a Council to act in a way which is incompatible with this or any other right under the European Convention. If it does so, section 7 gives the victim the right to bring proceedings against the Council, or challenge its actions in any proceedings brought against him or her. Section 8 empowers the courts to grant an injunction and in exceptional cases to award damages against the Council.
- 2.6 The main purpose of RIPA is to provide a framework for ensuring that any interference with human rights resulting from the use of the investigatory powers regulated by the Act will be in accordance with the law.
- 2.7 Proper authorisation of the use of investigatory powers under RIPA will therefore:
 - Ensure that the evidence gathered is not challenged in the courts under section 7 of the Human Rights Act 1998
 - Protect the Council against claims under section 8 of the Human Rights Act 1998 for acting in a manner incompatible with an individual's rights under the European Convention.

3. WHEN DOES RIPA APPLY?

- Intercepting communications
- Acquiring communications data
- Intrusive surveillance
- Directed surveillance
- The use of covert human intelligence sources
- Gaining access to electronic data protected by encryption

- 3.1 Council's powers are regulated by Part II of RIPA and are limited to:

- Directed surveillance
- The use of covert human intelligence sources

- 3.2 "Surveillance" includes;

- monitoring, observing, or listening to persons, their movements, their conversations or other activities or communications
- recording anything monitored, observed, or listened to in the course of surveillance
- surveillance by or with the assistance of a surveillance device (e.g. any apparatus designed or adapted for use in surveillance)

- 3.3 Surveillance is “**covert surveillance**” if it is carried out in a manner that is calculated to ensure that person being monitored, observed or listened to etc is not aware of it.
- 3.4 Covert surveillance can be authorised under the act if it is either **Intrusive** or **Directed**.
- 3.5 Surveillance is “**intrusive**” if it is covert surveillance of anything taking place on residential premises or in a private vehicle AND it involves the investigator being on the premises or using a surveillance device (e.g. a bug or concealed camera). Local Authorities cannot undertake this type of surveillance.
- 3.6 Surveillance is “**directed**” if it is ALL of the following:
- covert
 - not intrusive
 - undertaken for a specific investigation or a specific operation
 - likely to result in obtaining private information about anyone (NB not necessarily the person targeted)
 - planned in advance
- 3.7 Even carefully directed surveillance can result in private information being obtained about persons other than the target. For example, if premises are under observation because it is suspected that an offence is being committed there, it is likely that private information about innocent visitors to the premises could be obtained as well as information about the suspected offender. Such intrusion on the privacy of people other than the target is referred to as “collateral intrusion”. Where collateral intrusion is likely, the surveillance could be “directed surveillance” even if no private information about the suspect is sought or obtained.
- 3.8 Private information is any information relating to a person’s private or family life. It may include personal data, such as names, telephone numbers and address details. It includes (but is not restricted) to information about a person’s private or family life and includes the way in which a person conducts his business and professional life. The common sense approach is to interpret the expression broadly and to recognise that it is highly likely that surveillance directed at individuals or groups of individuals will result in obtaining private information about them and/or other people they come into contact with. Where covert surveillance is unlikely to result in obtaining private information about a person (and there will be no interference with Article 8 rights) there is no requirement for authorisation under the Act.
- 3.9 Surveillance which is not planned in advance, but is undertaken by way of an immediate response to events or circumstances which make it impractical to obtain authorisation, is not regarded as directed surveillance. Thus if an investigating officer notices something suspicious by chance, he or she can continue to keep the suspect under observation without the need for written authorisation. However, returning to the scene subsequently to resume observations would require authorisation.
- 3.10 It may sometimes be necessary to use the internet to gather information prior to or during an operation which could amount to Directed Surveillance. When the internet

is likely to be used as part of an investigation it will be important to consider whether the proposed activity is likely to interfere with an individual's Article 8 rights and should only be used when necessary and proportionate. Where it is considered that private information is likely to be obtained, an authorisation must be sought. Please see paragraph 18 on social media and Appendix B, which must be adhered to before accessing an individual's social media page.

Use of Directed Surveillance (or deployment of a CHIS) could potentially be used by the Council in an investigation as a means of obtaining information. Use of either must be authorised. There are designated officers within the Council ('Authorising Officers') who are able to authorise such activity. The authorising officer must consider the detailed legal tests when deciding whether to authorise the covert activity. If the authorising officer does authorise the activity, it is still subject to a judicial process and an application must be made to the Magistrates by Legal Services for approval of the authorisation. No Directed Surveillance or the deployment of a CHIC can take place until Magistrates approval is obtained.

- 3.12 If you consider that you might wish or need to carry out Directed Surveillance or deploy a CHIS as part of an investigation or even if you are not certain whether the activities you are proposing require a RIPA authorisation, seek advice from Legal Services.
- 3.13 Most of the surveillance carried out by the Council will be **"Overt."** This means there is nothing secret about it, it is not clandestine or hidden. It will also be overt if the subject has been told it will happen (for example when we investigate noise complaints we write to the noisemaker and tell them that we will be putting in noise monitoring equipment to record the noise.
- 3.14 Local Authorities can't authorise **"property interference."** This is entry onto or interference with property or with wireless telegraphy.
- 3.15 Officers intending to undertake surveillance should therefore consider whether all the criteria set out in the above paragraphs apply to the operation. If so they should obtain authority in advance in accordance with this guidance.

Remember:

- **Overt activities DO NOT need authorisation**
- **Intrusive surveillance CANNOT be authorised**

4 AUTHORISING OFFICERS

- 4.1 There are comparatively few instances in which Directed Surveillance is likely to be necessary or justified. Most investigations can be carried out by other means. Consequently the Council has designated the following officer to authorise Directed Surveillance:

- **Chief Executive – Angela Andrews**

- 4.2 Authorised Officers shall have the appropriate training. Additional Authorising Officers will be nominated in writing by the Monitoring Officer following the Monitoring Officer being satisfied that they are appropriately trained to undertake the task.
- 4.3 An Authorisation acquired in accordance with RIPA, providing the statutory tests are met will provide the Council with a lawful basis in which to carry out covert surveillance activities which are likely to result in the officers involved obtaining private information about an individual.

5. MONITORING OFFICER

- 5.1 The RIPA Monitoring Officer is Carolyn Wheater (City Solicitor) and the Deputy is Becky Scott (Legal Services Manager)
- 5.2 The Monitoring Officer's role is to be fully aware of the contents of this policy, its implementation and updating relevant officers as to the requirements of the legislation.
- 5.3 The Monitoring Officer will receive and investigate complaints by members of the public who reasonably believe they have been adversely affected by surveillance activities carried out by the Council.

6. APPLYING FOR AUTHORITY

- 6.1 This is a two-stage process. Firstly, an authorisation must be obtained from the Authorising Officer. Secondly, approval must be obtained from a Justice of the Peace. This involves Legal Services applying to a Magistrates Court.

Written authorisations must be completed whenever an investigation involves the use of Directed Surveillance. This provides lawful authority to carry out Covert Surveillance. Authorisations for Directed Surveillance must be in writing. Authorisation must be sought before any proposed surveillance is undertaken. The Legal Services team will be able to provide advice as to the procedure to be followed when seeking authorisation and will represent the Council at the Magistrates Court to make the application.

- 6.2 Investigating officers seeking authorisation for Directed Surveillance should do so on the standard forms issued by the Home Office. Two copies of the form should be completed. Those seeking authorisation should ensure that the standard form is the latest version by downloading the form from the Home Office web site www.homeoffice.gov.uk (simply type RIPA forms into the search engine) or checking this with the Legal Services Manager.

<https://www.gov.uk/government/publications/application-for-use-of-directed-surveillance>

- 6.3 Using the standard forms helps both applicants and authorising officers to ensure that the Act is complied with and in particular will focus their attention on the crucial issues of justifying the need for the surveillance and its proportionality to the

objective. There are separate forms for issuing, reviewing, renewing and cancelling authorisations for both Directed Surveillance and the use of CHIS (the forms for a CHIS can be found in Appendix A),

<https://www.gov.uk/government/publications/renewal-form-for-directed-surveillance>

<https://www.gov.uk/government/publications/review-of-use-of-directed-surveillance>

<https://www.gov.uk/government/publications/cancellation-of-use-of-directed-surveillance-form>

6.5 All applications for authorisation of Directed Surveillance must be in writing and record as a minimum:

- The grounds on which authorisation is sought. Note that the power to authorise surveillance exists only for the prevention and detection of crime and disorder and no other purpose for local authorities.
- An assessment of the Directed Surveillance Crime Threshold. Directed Surveillance can only be authorised under RIPA to prevent or detect criminal offences that are either punishable, whether on summary conviction or indictment, by a minimum term of at least 6 months imprisonment. There are certain specified offences relating to the underage sale of alcohol or tobacco, which are exempt from the Directed Surveillance Crime Threshold. This also means that the Council can't authorise the use of Directed Surveillance to investigate disorder that does not involve criminal offences, or to investigate low level offences, which may include, for example, littering, dog control and fly-posting.

6.4 The person granting an authorisation for Directed Surveillance must believe that this is necessary. If they believe that it is necessary they must also believe that it is proportionate to the aim sought to be achieved by Directed Surveillance. When considering Proportionality the following factors are relevant:-

- Consideration of why the Directed Surveillance is proportionate to what it seeks to achieve.
- An analysis of what other options for gathering the information have been considered and that Directed Surveillance is necessary.
- 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 have been considered and why they were not implemented.
- Balancing the seriousness of the intrusion into the privacy of the subject of the operation (or any other person who may be affected) against the need for the activity in investigative and operational terms and consideration of the potential for Collateral Intrusion and why it is justified.
- The likelihood of acquiring any confidential or privileged material and the details of such material including material subject to legal privilege.

Fundamentally the use of covert surveillance must be proportionate to the issue being investigated.

Authorisation will not be proportionate if it is excessive in the circumstances of the case. Each action authorised should bring an expected benefit to the investigation or operation and should not be disproportionate or arbitrary. No activity will be considered proportionate if the information which is sought could reasonably be obtained by other less intrusive means. All surveillance should be carefully managed to meet the objective in question and must not be arbitrary or unfair.

6.5 When assessing proportionality the following points should be considered:

- 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 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.

6.5.1 The following should be considered as best working practices:

- Applications should avoid repetition of information
- Information contained in applications should be limited to that required by the relevant legislation
- Where it is foreseen that other agencies will be involved, these should be detailed in the application
- Authorisations should not generally be sought for activities already authorised following an application by the same or a different Council.

7 GRANTING AUTHORITY

7.1 Before granting authority for Directed Surveillance, the Authorising Officer must believe it is “necessary” in the circumstances of the particular ground only:

- To prevent or detect particular types of criminal offences;
- And these offences must be either punishable, whether on summary conviction or indictment, by a maximum term of at least 6 months or criminal offences related to the underage sale of alcohol and tobacco (it must meet the Directed Surveillance Crime Threshold).

Officers must satisfy themselves that what they are investigating is a criminal offence. If at any time during the investigation it becomes clear that the activity being investigated does not amount to a criminal offence or is a less serious offence which does not meet the threshold the Directed Surveillance Authorisation must be cancelled.

7.2 The test for necessary needs to include a consideration of why it is necessary to use Directed Surveillance. All other grounds identified on the forms must be deleted. Directed surveillance or the use of a CHIS will not be necessary if there are other means of obtaining the required evidence. Therefore consideration must be given to other means of obtaining this evidence before Directed Surveillance or the use of a CHIS is considered and this should be documented.

7.3 As well as believing that the authorisation is necessary, the Authorised Officer will also have to be satisfied that the proposed surveillance is proportionate to the objective.

This is not always an easy test to apply, but as a general rule:

- Covert surveillance should not be used where there are alternative means of obtaining the required information
- Unduly intrusive methods should not be used to obtain information about trivial contravention of offences.

7.4 In this context it is important to bear in mind the risk of Collateral Intrusion as well as the effect on the target.

7.5 An Authorising Officer must give their authorisation in writing. They should not be responsible for authorising operations in which they are directly involved. All authorisations must be recorded in the centrally retrievable record of authorisation.

7.6 A written application for Directed Surveillance should describe any conduct to be authorised and the purpose of the investigation. It should include:

- The reasons why the authorisation is necessary in this particular case and on what grounds
- The nature of the surveillance
- The identities (if known) of the subject of the surveillance
- A summary of the intelligence case and appropriate unique intelligence references where applicable

- An explanation of the information which is desired to be obtained as a result of the surveillance
- The details of any potential Collateral Intrusion and why this intrusion is justified
- The details of any Confidential Information which is likely to be obtained as a consequence of the surveillance
- The reasons why the surveillance is considered proportionate to what it seeks to achieve

A subsequent record should also be made of whether authorisation was given or refused, by whom and the time and date this happened.

- 7.7 Authorisation will cease to have effect (unless renewed or cancelled) at the end of a period of 3 months beginning on the day the Authorisation was granted.

8 COLLATERAL INTRUSION AND CONFIDENTIAL INFORMATION

- 8.1 Before authorising Directed Surveillance the Authorising Officer should take into account the risk of obtaining private information about persons who are not the intended subjects of the activity. This is known as Collateral Intrusion.
- 8.2 Measures should be taken, wherever practicable, to avoid or minimize unnecessary intrusion into the privacy of those who are not the subject of the Directed Surveillance. Where Collateral Intrusion is unavoidable, the activities may still be authorised providing this Collateral Intrusion is considered proportionate to the aims of the intended intrusion. Any Collateral Intrusion should be kept to the minimum necessary to achieve the objectives of the operation. All applications should include an assessment of the risk of any Collateral Intrusion and detail the measures taken to limit this to enable the Authorising Officer to properly consider the proportionality of the surveillance in light of the Collateral Intrusion.
- 8.3 The risk of Collateral Intrusion must be addressed on the application form. The reasons why Collateral Intrusion is unavoidable and the steps taken to minimise it, must also be set out on the form.
- 8.4 The form also requires the officer to consider the likelihood of acquiring Confidential Information to be assessed. Confidential Information consists of:
- matters subject to legal privilege (i.e. advice and instructions which are confidential as between legal advisors and their clients)
 - confidential personal information about a person's physical or mental health, or spiritual counselling
 - confidential journalistic material (i.e. information which a journalist has acquired on a confidential basis)
- 8.3 If confidential information is likely to be obtained, the Chief Executive is required to be the Authorising Officer.

- 8.4 Having satisfied themselves about all of the above matters, Authorising Officers must ensure that all the relevant sections of both copies of the application form are completed and signed. One copy of the completed and signed form should be retained within the department and the original is to go on the Central Register.

9 JUDICIAL APPROVAL

- 9.1 Under amendments made to the Act by The Protection of Freedoms Act 2012 the Council must now make an application to the Magistrates Court in order to obtain judicial approval. The Council must obtain an order approving the grant or renewal of an authorisation from a Justice of the Peace (JP) before it can take effect.
- 9.2 No activity permitted by the authorisation granted by the Authorising Officer may be undertaken until the approval of the Magistrates Court of that authorisation has been obtained. An Authorising Officer who intends to approve and application for the use of Directed Surveillance must immediately inform the Monitoring Officer and legal Services in order that the application can be made to the Magistrates Court.
- 9.3 The JP will consider whether or not the authorisation for the use of Directed Surveillance is necessary and proportionate. They will need to be satisfied that at the time the authorisation was granted or renewed or notice was given or renewed there were reasonable grounds for believing that the authorisation or notice was necessary and proportionate. If the Justice of the Peace is satisfied that the statutory tests have been met and that the use of Directed Surveillance is necessary and proportionate they will issue an order approving the grant or renewal of authorisation as described in the application.
- 9.4 A RIPA application to a JP is a legal proceeding; this application will be made by Legal Services on behalf of officers with sign off by the RIPA Monitoring Officer. Investigating officers may need to attend and should be prepared to present their evidence to court. The hearing will be a closed one. It is very important that all the evidence relied upon in the application is contained within the forms and supporting papers. They must make the case, it is not sufficient to provide oral evidence where the oral evidence given is not reflected in the papers. Oral evidence should support the documents and should not be used to expand them or present information or evidence that is not already in the papers.

10 DURATION, REVIEW, RENEWAL AND CANCELLATION OF AUTHORISATIONS

- 10.1 If at any time before an authorisation would cease to have effect, and the Authorising Officer considers it necessary for the authorisation to continue for the purpose for which it was given he/she may approve a renewal in writing for a further period of three months, beginning with the day when the authorisation would have expired but for the renewal.

Authorisations may be renewed more than once, provided they continue to meet the criteria for authorisation.

- 10.2 Regular reviews of all authorisations should be undertaken to assess the continuing need for Direct Surveillance. The results of the review should be recorded and retained for 3 years. Where Directed Surveillance involves a high level of Collateral Intrusion or where Confidential Information is likely to be obtained, reviews should be undertaken more frequently.
- 10.3 Where possible a review should be undertaken by the original Authorising Officer. Where, for whatever reason this is not possible, the review should be undertaken by an officer who would be entitled to grant a new authorisation in the same terms.
- 10.4 Any proposed or unforeseen changes to the nature or extent of the surveillance operation which may result in further or greater Collateral Intrusion must be brought to the attention of the Authorising Officer through a review. The Authorising Officer must consider whether the proposed changes are proportionate. Any changes must be highlighted at the next renewal.
- 10.5 Authorisations are of limited duration unless renewed. Their duration is 3 months.

A renewal must be authorised prior to the expiry of the original Authorisation but it runs from the expiry date and time of the original Authorisation. It should not be renewed until shortly before the original Authorisation period is due to expire. Authorisations may be renewed more than once if they are still considered necessary and proportionate and approved by a JP.

As renewals are subject to the approval by the Magistrates Court, Authorising Officers must advise the Monitoring Officer and Legal Services immediately when they are minded to grant a renewal.

Whilst applications for renewals should not be made until shortly before the original authorisations period is due to expire, officers must take into account factors which may delay the renewal process (the availability of the Authorising Officer, Legal Services and court listings).

- 10.6 Authorising Officers cannot simply allow an authorisation to run its course and expire. An authorisation must be cancelled if it is no longer needed, or if it no longer matches the basis on which it was granted. The need for cancellation may arise before an authorisation is due for review. It is, therefore essential that the investigating officer should draw the attention of the Authorising Officer to any relevant developments and for the Authorising Officer to pro-actively monitor the use being made of the authorisation.
- 10.7 Formal reviews must be carried out on the date(s) specified in the Authorisation, this should not be later than one month following authorisation. The relevant forms direct Authorising Officers to the matters to be considered on a review. In general terms the considerations are the same as those to be taken into account when first issuing an authorisation.
- 10.8 An authorisation may be renewed at any time before it expires. All applications for renewal of authorisations for Directed Surveillance should record:

- whether the renewal is the first renewal, or the dates of any previous renewal
- any significant changes to the information on which the authorisation was last issued or renewed
- the reasons why it is necessary to continue with the surveillance
- an estimate of the length of time the surveillance will continue to be necessary.
- the content and value to the investigation of the information so far obtained.
- the results of regular reviews of the investigation or operation.

10.9 Authorisations may be renewed more than once provided that they continue to meet the criteria for Authorisation. Any person who is entitled to grant a new Authorisation can renew an Authorisation. Authorisations must be cancelled if the Directed Surveillance as a whole no longer meets the criteria upon which it was authorised.

10.10 All reviews, cancellations and renewals must be recorded on the relevant forms, which should be completed in duplicate. The forms direct Authorising Officers towards the relevant considerations to be taken into account.

10.11 Reviews, renewals and cancellations should be carried out by the Authorised Officer who first issued the relevant Authorisation. The details of any renewal should be centrally recorded.

10.12 Authorising Officers are required to ensure that:

- Authorisations have been properly cancelled at the end of the period of surveillance
- Surveillance does not continue beyond the authorisation period
- Current authorisations are regularly reviewed
- Ensure the timely destruction of the results of surveillance operations

11. CENTRAL REGISTER

11.1 A centrally retrievable record of all authorisations should be held by the Council and updated whenever an Authorisation is granted, renewed or cancelled. This information must be held for three years from the end of each Authorisation. If there is reason to believe that any of the information obtained as a result of the authorisation might be relevant to further civil or criminal proceedings then this should not be destroyed but should be retained in accordance with established disclosure requirements. The record should be made available to the relevant Commissioner or Inspector from the Office of Surveillance Commissioners upon request.

11.2 The record must contain the following information:

- The date that the Authorisation was given
- The name and position of the Authorising Officer
- The unique reference number (URN) of the investigation, its title and a brief description of the names and subjects (if known)

- The details of the attendance at the Magistrates, the date of the attendance, the determining Magistrate, the decision of the court and the time and date of the decision
- The date of any reviews
- If the Authorisation has been renewed when it was renewed, who authorised the renewal (name and position of the officer)
- Whether the investigation is likely to result in obtaining any Confidential Information
- The date the Authorisation was cancelled.
- Where the application is refused, the grounds or reasons for refusal given by the Authorising Officer or the Justice of the Peace.

11.3 The following documentation should also be centrally retrievable for at least three years following the end of the Authorisation:

- A copy of the Application and a copy of the Authorisation with any supplementary documentation and notification of the approval given by the Authorising Officer.
- A record of the period over which the surveillance has taken place
- The frequency of the reviews prescribed by the Authorising Officer
- A record of the results of each review of the Authorisation
- A copy of any renewal of an Authorisation with any supporting documents submitted when the renewal was requested.
- Date and time when any instruction to cease surveillance was given
- A copy of the order approving or otherwise the grant for renewal of an Authorisation from a JP.

11.2 The Central Register is kept by the RIPA Monitoring Officer, who will also retain an excel spreadsheet of the Central Register. The RIPA Monitoring Officer is responsible for maintaining the Central Register.

12 KEEPING RECORDS

12.1 Quite apart from the statutory requirement that Authorisations should be in writing, there is self-evidently a need to keep proper records so that the protection of the Act can be relied upon in any legal proceedings if needs be.

12.2 As outlined earlier, two copies of every Authorisation, review, renewal or cancellation should be completed. One should be retained by the department and the original sent to the RIPA Monitoring Officer, to be put onto the Central Register. The Authorising Officer is responsible personally for ensuring that copies of those documents are sent to the RIPA Monitoring Officer, within one week.

12.3 Forms should be handed over personally or sent in a sealed envelope marked "Private and Confidential".

- 12.4 The handling, storage and destruction of material obtained through an operation must be done so in accordance with the requirements of the General Data Protection Regulation and the Council's policies.
- 12.5 Material gathered under RIPA through Directed Surveillance which has been properly Authorised can be used to further other investigations.
- 12.6 Each service department undertaking Directed Surveillance must ensure that adequate arrangements are in place for the secure handling, storage and destruction of material obtained through the use of covert surveillance.

13 HEALTH AND SAFETY

- 13.1 Authorising Officers are reminded of the need to ensure that the health and safety implications of undertaking investigations are taken into account.
- 13.2 This, of course, applies whether or not Covert Surveillance is taking place, but in certain circumstances the level of risk to employees may be increased by covert activity. The risk must be properly assessed and steps taken to minimise it.

14 WORKING WITH/THROUGH OTHER AGENCIES

- 14.1 In certain circumstances it may be necessary for the Council to work with other agencies on a surveillance operation. When this is the case the Council should try to avoid duplication of Authorisations. Where there has been duplication this will not affect the lawfulness of the activities conducted.
- 14.1 When another agency has been instructed on behalf of the Council to undertake any action under RIPA, this policy and the forms in it must be used (as per normal procedure) and the agency advised or kept informed, as necessary, of the various requirements.
- 14.3 When another agency (e.g. the Police, Customs and Excise, Inland Revenue etc); -
- wish to use the Council's resources (e.g. CCTV) that agency must use its own RIPA procedures and before an officer agrees to allow the Council's resources to be used by any agency they must obtain a copy of that agency's RIPA form for the record (a copy of which must be passed to the RIPA Monitoring Officer for the Central Register).
 - wish to use the Council's premises for their own RIPA action the officer should, normally co-operate with the same, unless there are security or other good operational or managerial reasons as to why the City Council's premises should not be used for the agency's activities. Suitable insurance or other appropriate indemnities may be sought, if necessary, from the agency. In such cases the Council's own RIPA forms should not be used as the Council's role is simply to assist in the RIPA activity.

- 14.4 If the Police or other agency want to use the Council resources for general surveillance, as opposed to specific RIPA operations, an appropriate letter requesting the proposed use, extent of remit, duration, who will be undertaking the general surveillance and the purpose of it must be obtained from the Police or other Agency before any Council resources are made available for the proposed use. If in doubt please consult with the RIPA Monitoring Officer or the Legal Services Manager at the earliest opportunity.

15 TRAINING

- 15.1 The RIPA Monitoring Officer should ensure that all officers who are required to undertake investigations receive relevant RIPA training and appropriate refresher training. However, any investigating officer who feels that they need further training or refresher training should raise this with their supervisor at the earliest opportunity. It is the responsibility of all investigating officers to ensure that they keep up to date with any developments or changes to RIPA. In house training can be sought by contacting Legal Services.

16 SENIOR RESPONSIBLE OFFICER (SRO)

- 16.1 The Council has appointed the City Solicitor as the SRO who is responsible for the following:-
- The integrity of the process in place within the Council to authorise Directed Surveillance.
 - For ensuring that all Authorising Officers are of an appropriate standard in light of any recommendations in the inspection reports prepared by the Office of the Surveillance Commissioner.
 - Compliance with Part II of the 2000 Act, Part III of the 1997 Act and with this code;
 - Engagement with the Commissioners and Inspectors when they conduct their inspections, and
 - Address any post inspection action plans recommended or approved by a Commissioner.

17 REVIEW AND PUBLICATION

- 17.1 The Policy will be reviewed annually and any changes presented to the Executive on an annual basis to comply with the Codes, the legislation and to ensure that it is being used consistently. It may be amended from time to time in light of any developments in the law and experience of the operation to ensure that it remains fit for purpose. Staff are encouraged to raise any issues they may have with the Legal Services Manager.

- 17.2 The Executive shall review the Council's use of RIPA annually in accordance with the Code of Practice on Covert Surveillance and Property Interference.

18 SOCIAL MEDIAL

- 18.1 It is important to be aware that the use of social media in an investigation could, depending on how it is used and the type of information likely to be obtained, constitute covert activity that requires authorisation under RIPA.
- 18.2 Researching 'open source' material would not require authorisation but return visits to these sites in order to build up a profile could change this position and may constitute Directed Surveillance and need an authorisation. As such before any integration of social media is undertaken a social media access request form (attached at Appendix B) must be completed and signed by one of the Council's solicitors.
- 18.3 Officers should not use false personae (a false social media profile or handle) or their own social media to undertake any authorised social media searches. The Council's own social media accounts must be used for this.

19 ERRORS AND BREACHES OF RIPA

- 19.1 An error must be reported if it is a Relevant Error (as defined under section 231(9)_RIPA. An example of Relevant Errors occurring would include circumstances where Surveillance or the use of a CHIS has taken place without the lawful authority.
- 19.2 All Relevant Errors made by the Council of which it is aware must be reported to the IPC as soon as reasonably practicable and no later than 10 working days.
- 19.3 Once the error has been identified, the Council must take steps to confirm the fact of an error as quickly as it is reasonably practicable to do so. Where it is subsequently confirmed that an error has occurred and that the error is notified to the Commissioner, the Council must also inform the commissioner of when it was initially identified that an error may have taken place.
- 19.4 A full report must be sent to the Investigatory Powers Commissioner as soon as reasonably practicable in relation to any relevant error, including details of the error. The report should include information on the cause of the error, the amount of surveillance conducted and any material obtained or disclosed, any collateral intrusion, any analysis of the action taken, whether any material has been retained or destroyed and a summary of the steps taken to prevent recurrence.
- 19.5 If the Investigatory Powers Commission considers the error to be a serious error and that it is in the public interest for the person concerned to be informed of the error, they must inform them. An error is a serious error where it is considered to have caused significant prejudice to the person concerned. When deciding whether it is in the public interest for the person concerned to be informed of the error, the Commissioner must in particular consider:

- The seriousness of the error and its effect on the person concerned
- The extent to which disclosing the error would contravene the public interest and be prejudicial to: national security, the prevention or detection of serious crime, the economic well-being of the United Kingdom or the continued discharge of function of any of the security and intelligence services.

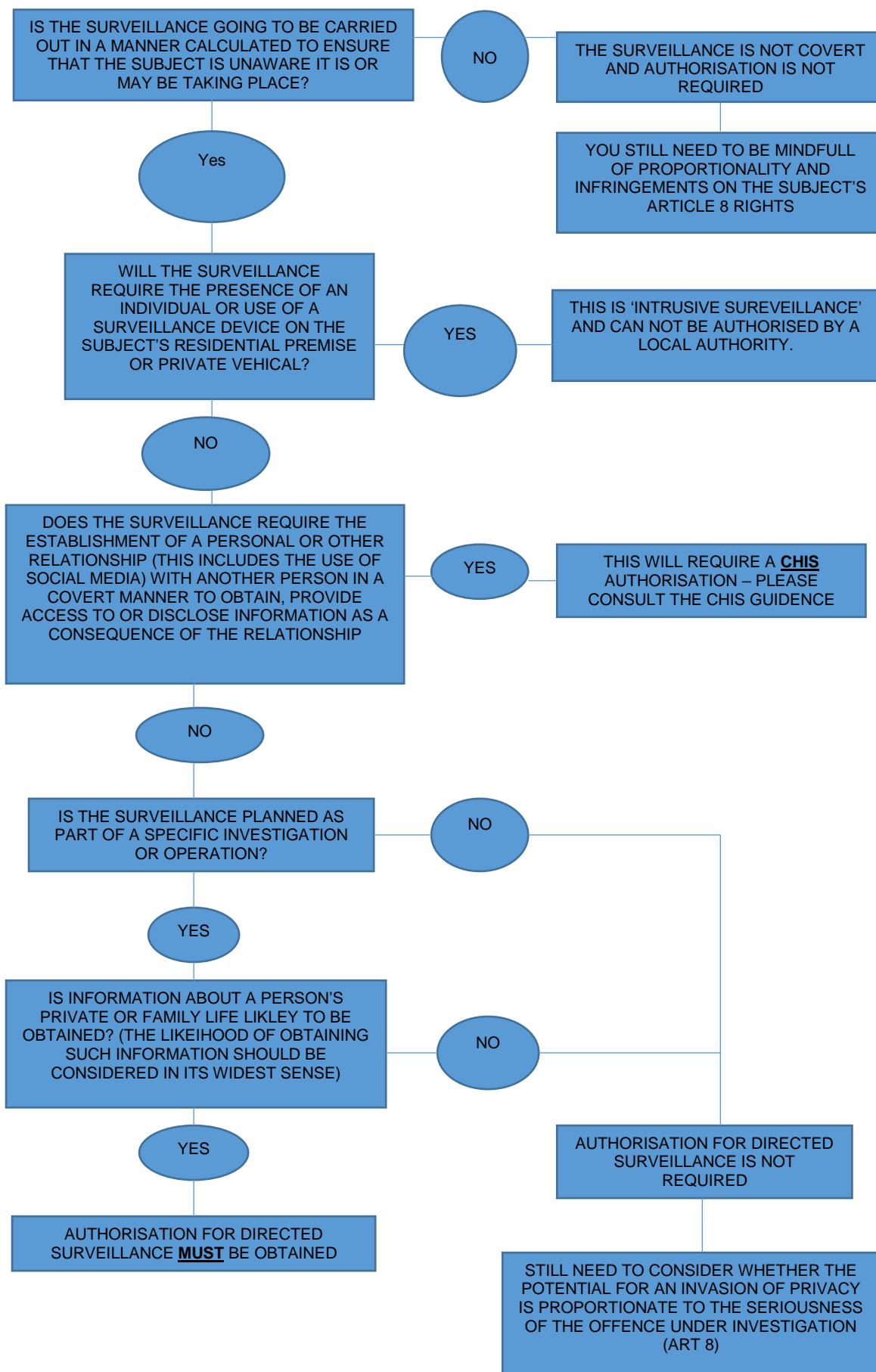
19.6 When informing a person of a Serious Error, the Commissioner must inform the person of any rights that they may have to apply to the Investigatory Powers Tribunal and provide such details of the error as the Commission considers to be necessary for the exercise of these rights.

19.7 Evidence gathered where RIPA has not been complied with may not be admissible in Court. Any perceived breach of this policy or the RIPA procedures should be reported to the Monitoring Officer. Where the breach relates to an active court case this should also be raised with the Solicitor instructed in this case. These should be reported as soon as they come to light.

20 OTHER SOURCES OF ADVICE

20.1 Detailed guidance on the operation of RIPA is available in Codes of Practice published by the Home Office and available on their website www.homeoffice.gov.uk. Advice is also available from the RIPA Monitoring Officer and Legal Services.

IS A DIRECTED SURVEILLANCE AUTHORISATION REQUIRED?



APPENDIX A

GUIDANCE TO STAFF ON USE OF COVERT HUMAN INTELLIGENCE SOURCES

This Guidance **must** be read in conjunction with the City of Lincoln Council's Policy on Regulation of Investigatory Powers Act 2000 (RIPA)

1. GENERAL POLICY

- 1.1 Please refer to the policy on RIPA for an explanation of the Regulation of Investigatory Powers Act 2000 and how this affects the Council.
- 1.2 The procedure and guidance set out in this Guidance is based on the provisions of RIPA, the Home Office Codes of Practice on the use of CHIS and the Home Office Guidance to Local Authorities in England and Wales on the Judicial Approved Process for RIPA and the Crime Threshold for Directed Surveillance. When implementing any procedure or policy contained within this guidance the officer and the Authorising Officer must ensure that there is compliance with the Home Office Codes of Practice on CHIS. This can be found at:

<https://www.gov.uk/government/publications/covert-surveillance-and-covert-human-intelligence-sources-codes-of-practice>
- 1.3 There is a Flowchart at the end of this Policy to summarise the requirements of RIPA.
- 1.4 To be clear, there is no use of a CHIS merely because a person offers information to the Council that may be material to the investigation of an offence, but there would be if the authority asks that person to obtain further information. If a person has a relationship with another person which is not established or maintained for a covert purpose, the fact that he or she does in fact covertly disclose information to the local authority will not require an authorisation and that person will not be a CHIS.
- 1.5 It is not only a person outside of the employment of the Council who may be used as a source. If a member of staff is intended to be used as a CHIS, appropriate training must be given to that staff member.

2. COVERT HUMAN INTELLIGENCE SOURCES

- 2.1 A person is a "covert human intelligence source" (CHIS) if:
 1. They establish or maintain a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within 2) or 3)
 2. They covertly use such a relationship to obtain information or to provide access to any information to another person; or
 3. They covertly disclose information obtained by the use of such a relationship or as a consequence of the existence of such a relationship

- 2.2 In this context, a source of information acts covertly if he or she establishes and maintains a relationship which is conducted in a manner which is calculated to ensure that the other person is unaware that the relationship is being used for the purposes listed above.
- 2.3 A relationship that is used covertly, and the information obtained is disclosed covertly, if and only if the relationship is used or the information is disclosed in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the use or disclosure in question. Where a person acting in their role for the Council is intending to engage with members of the public online without disclosing their identity or purpose, a CHIS authorisation may be needed and the Council's RIPA Policy should be consulted and the Social Media Access form should be used.
- 2.4 When applied to a relationship "established" means "set-up." It does not require, as "maintains" does, endurance over any particular period. Repetition is not always necessary to give rise to a relationship but whether or not a relationship exists depends on all the circumstances including the length of time of the relationship and the nature of any covert activity.
- 2.5 The use of a CHIS involves inducing, asking or assisting a person to engage in the conduct of a CHIS or to obtain information by means of the conduct of such a CHIS.
- 2.6 RIPA regulates the "conduct and use" of covert human intelligence sources. An officer therefore requires authority both to act as a CHIS in person and to use anyone else (e.g. a member of the public or private investigator) as a CHIS.
- 2.7 Officers should carefully consider whether any potential human source of information might be a CHIS and if so to secure the necessary authority in accordance with this guidance and accompanying documents. It is worth noting that a person meets the CHIS criteria even if they volunteer information to an officer. Officers should ensure that they are familiar with the Home Office Code of Practice on the use of Covert Human Intelligence Sources and also seek advice from Legal Services if necessary.
- 2.8 There are separate forms to be completed for the use of a CHIS and for reviewing, renewing and cancelling the use of a CHIS. These need to be completed by the officer and signed by the Authorising Officer. These forms and guidance on them can be here:

<https://www.gov.uk/government/publications/application-for-the-use-of-covert-human-intelligence-sources-chis>

<https://www.gov.uk/government/publications/reviewing-the-use-of-covert-human-intelligence-sources-chis>

<https://www.gov.uk/government/publications/renewal-of-authorisation-to-use-covert-human-intelligence-sources>

<https://www.gov.uk/government/publications/cancellation-of-covert-human-intelligence-sources-chis>

3. **AUTHORISING THE USE OF A CHIS**

- 3.1 The need to make use of a CHIS is likely to be even more infrequent than for Direct Surveillance. It involves additional considerations and procedures. Authority to authorise the conduct or use of a CHIS can only be granted by the Authorising Officer as outlined in the Policy. The Council has resolved that this must be in conjunction with the RIPA Monitoring Officer.
- 3.2 Before authorising the conduct or use of a CHIS the Authorising Officer will not only need to take into account the general considerations as outlined in the main guidance on RIPA but will also need to be satisfied that the appropriate arrangements are in place for:
- The management and oversight of a CHIS by a designated officer who will also have responsibility for the CHIS's security and welfare
 - Record keeping
 - Ensuring that any records disclosing the identity of the CHIS are only made available on a strict "need to know" basis.
- 3.3 Vulnerable individuals and juveniles should only be used as sources in the most exceptional circumstances and special rules apply in these cases. Only the Chief Executive may authorise use of a juvenile or vulnerable CHIS.

"Vulnerable individuals" are defined as people in need of community care services by reason of physical, mental or other disability, age or illness and who are unable to take care of themselves or protect themselves against significant harm or exploitation.

"Juveniles" are persons under 18 years of age. Special safeguarding rules apply to the use or conduct of juveniles as sources. Under no circumstance should the use or conduct of a CHIS under 16 be authorised to give information on their parents or any person who has parental responsibility for them. Any authorisation for the use or conduct of a juvenile CHIS will only be for 1 month's duration as opposed to 12 months for all other CHIS.

Those authorised to grant the use of CHIS's will be extremely reluctant to issue authorisations for the use of vulnerable individuals or juveniles.

Where a CHIS is under the age of 16 years old the Council must ensure that an appropriate adult is present at all meetings between the juvenile source and any person representing the investigating authority.

- 3.4 Before authorising the use or conduct of a source, the Authorising Officer should take into account the risk of interference with the private and family life of persons who are not the intended subjects of the CHIS activity. This is known as Collateral Intrusion, a definition of Collateral Intrusion can be found in the RIPA Guidance above.

- 3.5 Measures should be taken, wherever practicable, to avoid or minimize interference with private and family life of those who are not the intended subjects of the CHIS activity. Where Collateral Intrusion is unavoidable, the activities may still be authorised providing this Collateral Intrusion is considered proportionate to the aims of the intended intrusion. Any Collateral Intrusion should be kept to the minimum necessary to achieve the objectives of the operation. All applications should include an assessment of the risk of any Collateral Intrusion and detail the measures taken to limit this to enable the Authorising Officer to properly consider the proportionality of the operation in light of the Collateral Intrusion.
- 3.6 The Authorising Officer who grants an authorisation should, where possible, be responsible for considering subsequent renewals of the Authorisation and any relevant security and welfare issues. The Authorising Officer will stipulate the frequency of formal reviews and The Controller should maintain an audit of case work sufficient to ensure that the use or conduct of the CHIS remains within the parameters of the Authorisation. This does not prevent additional reviews being conducted in response to the changing circumstances of an operation.
- 3.7 In some cases a single Authorisation may cover more than one CHIS. However it is only likely to be appropriate in situations where the activities to be authorised, the subjects of the operation, the interference with the private and family life, the likely Collateral Intrusion and the environmental or operational risk assessments are the same.
- 3.8 As of 1st November 2012 the Council now has to obtain an order from a Justice of the Peace (JP) approving the grant or renewal of any Authorisation for the use of CHIS before Authorisation can take effect and the operation be carried out. This is similar to the procedure outlined in the RIPA Policy and Legal Services advice is required to undertake this application.

The JP will consider whether or not the Authorisation for the use of a CHIS was necessary and proportionate. They will need to be satisfied that at the time the authorisation was granted or renewed or notice was given or renewed there was reasonable grounds for believing that the Authorisation or notice was necessary and proportionate. If the Justice of the Peace is satisfied that the statutory tests have been met and that the use of a CHIS is necessary and proportionate they will issue an order approving the grant or renewal of Authorisation as described in the application.

- 3.9 Authorisation for an adult CHIS (unless renewed) is for 12 months from the date of approval by the JP.
- 3.10 Regular reviews of the authorisations should be undertaken by the Authorising Officer to assess whether it remains necessary and proportionate to use a CHIS and whether the authorisation remains justified. The review should include:
- The use made of the CHIS during the period authorised
 - The tasks given to the CHIS
 - The information obtained from the CHIS

- If appropriate to the Authorising Officer's remit, the reasons why executive action is not possible at this stage.

Results of the review must be retained for at least 5 years. In each case it is up to the Authorising Officer to determine the frequency of a review. This should be as often as is considered necessary and proportionate but should not prevent reviews being conducted in response to changing circumstances. Where there are any significant or substantive changes to the nature of the operation, consideration should be given as to whether it is necessary to apply for a new authorisation.

- 3.11 CHIS authorisations can be renewed on more than one accession if necessary and provided that they continue to meet the criteria for authorisation. All renewals are subject to authorisation from a Justice of the Peace.

4. Necessity and Proportionality

- 4.1 The Act requires that the Authorising Officer (and then the JP) must believe that an Authorisation for the use or conduct of a CHIS is necessary and proportionate in the circumstances of the particular case for the purpose of preventing or detecting crime or of preventing disorder.
- 4.2 If it decides that the use of a CHIS is necessary the person granting the authorisation must then believe that the use is proportionate to what is sought to be achieved by the conduct and use of that CHIS. This involves balancing the intrusiveness of that CHIS on the target and others who might be affected by it against the need for the CHIS to be used in investigative and operational terms.
- 4.3 The use of a CHIS will not be proportionate if it is excessive in the circumstances of the case. Each action authorised should bring an expected benefit to the investigation or operation and should not be disproportionate or arbitrary. No activity will be considered proportionate if the information which is sought could reasonably be obtained by other less intrusive means.
- 4.4 When considering this the following factors are relevant:-
- 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.

Fundamentally the use of covert surveillance must be proportional to the issue being investigated

The test for necessary needs to include a consideration of why it is necessary to use covert surveillance

- 4.5 The use of a CHIS should be carefully managed to meet the objective in question and sources must not be used in an arbitrary or unfair way.

5.0 **Special Considerations for authorisation**

- 5.1 Care should be taken in cases where the subject might reasonably expect a high level of privacy or where Confidential Information is involved. Please refer to the RIPA Policy for more detailed guidance on Confidential Information. Confidential Information could be legally privileged information, or information which carries medical or journalistic confidentiality. In cases where legally privileged material or other Confidential Information might be acquired the use or conduct of a CHIS can only be authorised by the Authorising Officer.

6.0 **Officers Required**

- 6.1 Two officers are required for the management of a CHIS: The Handler who has day-to-day responsibility and will be the contact for receipt of information, and The Controller who has general oversight.
- 6.2 Tasking the CHIS is the responsibility of The Handler with reference to The Controller. It is important to ensure that Authorisation is not drawn up so narrowly that new authorisation must be sought each time the CHIS is tasked however it can be difficult to predict the needs of an operation at the time of Authorisation and where an operation changes officers must ensure that the existing Authorisation is sufficient. Where it is not it should be cancelled and new Authorisation should be sought.
- 6.3 The Handler will have the day to day responsibility for:
- Dealing with a CHIS on behalf of the authority concerned
 - Directing the day to day activities of the CHIS
 - Recording the information supplied by the CHIS
 - Monitoring the CHIS's security and welfare.
- 6.4 The Controller will be responsible for the management and supervision of the Handler and the general use and oversight of the CHIS.
- 6.5 Where the authorisation is for the use or conduct of a CHIS whose activities benefit more than a single public authority, responsibilities for the management and oversight of that CHIS may be taken up by one authority or can be split between the authorities. The Controller and Handler of a CHIS need not be from the same authority. The public authorities involved must lay out in writing their agreed oversight arrangements.

7.0 Keeping Records

- 7.1 Record keeping must be in accordance with The Regulation of Investigatory Powers (Source Records) Regulation S.I 2000; No 2725. Relevant officers will have their attention drawn to those specific requirements whenever an authorisation is issued and specific advice given as to how they should be complied with in the circumstances of the case. Consideration should be given to the management of any requirement to disclose information tending to reveal the existence or identity of a CHIS to or in court.
- 7.2 A centrally retrievable record of all authorisations should be maintained. These records need only contain the name, code name, or unique identifying reference of the CHIS, the date the Authorisation was granted, renewal or cancellation and an indication as to whether the activities were self-authorised. These records should be made available to the relevant Commissioner or Inspector from the Office of Surveillance Commissioners upon request.
- 7.3 These records should be retained for a period of at least five years from the ending of the authorisation to which they relate. In retaining records consideration must be given to the duty of care owed to the CHIS, the likelihood of future criminal or civil proceedings relating to information supplied by the CHIS or activities undertaken and the responsibilities and obligations under the General Data Protection Regulations. All records kept should be maintained in such a way so as to preserve the confidentiality and prevent disclosure of the identity of the CHIS and the information provided by the CHIS.
- 7.4 Records or copies of the following, as appropriate, should be kept for at least five years:
- A copy of the authorisation together with any supplementary documentation and notification of the approval given by the Authorising Officer
 - A copy of any renewal of an Authorisation, together with the supporting documentation submitted when the renewal was requested
 - The reason / reasons why the person renewing an Authorisation considered it necessary to do so.
 - Any risk assessment made in relation to a CHIS
 - The circumstances in which tasks were given to the CHIS
 - A record of the results of any reviews of the Authorisation
 - The reasons, if any, for not renewing the Authorisation
 - The reasons for cancelling an Authorisation
 - The date and time when any instruction was given by the Authorising Officer that the conduct or use of a CHIS must cease
 - A copy of the decision by an Ordinary Commissioner on the renewal of an authorisation beyond 12 months.
- 7.5 There must be arrangements in place for the secure handling, storage and destruction of material obtained through the use or conduct of a CHIS. This will be done in compliance with the General Data Protection Regulations and the Council's policies.

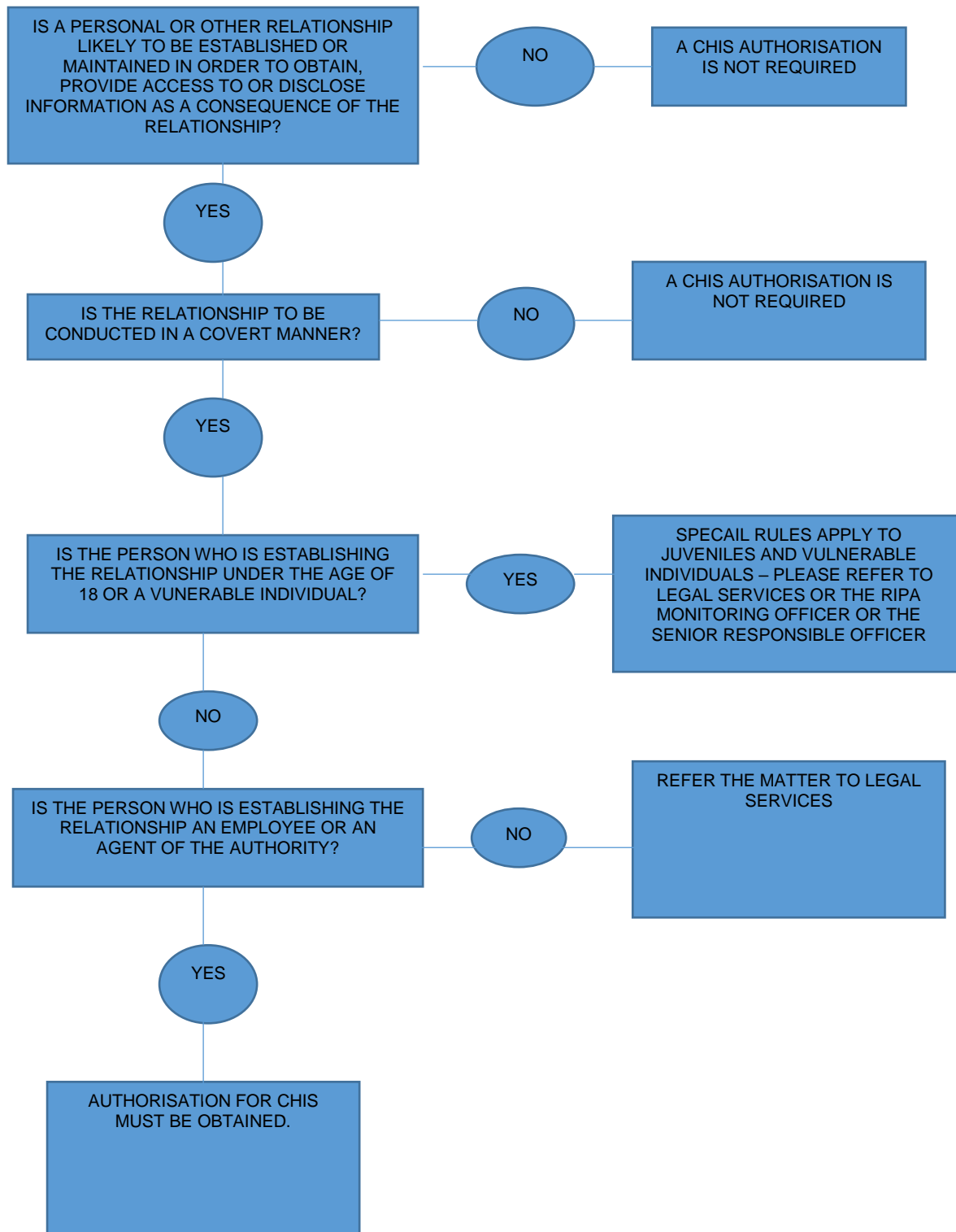
8.0 **Security and Welfare**

- 8.1 Before authorising the use or conduct of a CHIS the Authorising Officer must ensure that a risk assessment is carried out to determine the risk to the CHIS of any tasking and the likely consequences should the role of the CHIS become known. The ongoing security and welfare of the CHIS must be considered once the operation has terminated. This is to be carried out by the Corporate Health and Safety team.
- 8.2 The Handler is responsible for bringing to the attention of the CHIS Controller any concerns about the personal circumstances of the CHIS insofar as they might affect:
- The validity of the risk assessment
 - The conduct of the CHIS
 - The safety and welfare of the CHIS

Where appropriate, concerns about such matters must be brought to the attention of the Authorising Officer and a decision must then be taken on whether or not to allow the Authorisation to continue.

- 8.3 The Council recognises a duty of care to its covert sources and it is important that a risk assessment and management approach is taken with regard to the welfare of the source. The risk to the source may not only be physical but also psychological, for example stress.

IS A CHIS AUTHORISATION REQUIRED?



APPENDIX B

REQUEST TO ACCESS SOCIAL MEDIA FOR INVESTIGATIVE PURPOSES

FOR GUIDENCE FILLING OUT THIS FORM PLEASE REFER TO THE RIPA SOCIAL MEDIA GUIFDENCE ON NETCONSENT.

Social Media are “websites and applications which enable users to create and share content or to participate in Social Networking” For the avoidance of doubt this includes social networking sites.

THIS FORM ONLY ALLOWS YOU TO ACESS SOCIAL MEDIA SITES VIA COMMUNICATIONS, IT DOES NOT GIVE YOU AUTHORITY TO ACCESS THEM THOUGH YOUR OWN PERSONAL ACCOUNTS OR PERSONAL DEVICES.

LEAD OFFICER

SERVICE MANAGER

WHICH SOCIAL MEDIA / NETWORKING SITE DO YOU WISH TO ACCESS?

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.....

DOES THE TARGET HAVE PRIVACY SETTINGS APPLIED ON THESE SITES? Y / N / UNKNOWN

NATURE AND PURPOSE OF INVESTIGATION:

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IF YOU ARE INVESTIGATING AN OFFENCE DOES THE OFFENCE CARRY A 6 MONTH CUSTODIAL SENTENCE OR LONGER IF THE SUSPECT IS CONVICTED? Y / N

IF YES, WHAT IS THE MAXIMUM CONVICTION FOR THE OFFENCE?

.....

WHAT INFORMATION DO YOU HOPE TO FIND ON THE SITE?

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.....
IT MUST BE PROPORTIONATE TO BREACH AN INDIVIDUAL'S ARTICLE 8 RIGHT,
PLEASE EXPLAIN WHY YOU CONSIDER THIS BREACH TO BE PROPORTIONATE FOR
THE PURPOSES OF THIS INVESTIGATION:

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OUTLINE THE RISK (IF ANY) OF COLLATERAL INTRUSION?

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COMMENTS FROM LEGAL SERVICES

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SOLICITOR.....

DATE

***PLEASE RETAIN A SIGNED COPY OF THIS FORM FOR YOUR FILE.
COMMUNICATIONS WILL ALSO RETAIN A COPY OF THIS FORM.***

ONCE THIS FORM HAS BEEN SIGNED BY LEGAL SERVICES IT WILL ENTITLE YOU TO VIEW A SUSPECTS SOCIAL MEDIA PAGE OR SOCIAL NETWORKING PAGE ONCE (VIA COMMUNICATIONS) AND RECORD YOUR FINDINGS.

SHOULD THE CASE GO TO COURT YOU MAY NEED TO VISIT THE SOCIAL MEDIA / SOCIAL NETWORK SITE AGAIN TO UPDATE YOUR FINDINGS, THIS FORM AUTHOMATICALLY ENTITLES YOU TO ACCESS THE SAME SOCIAL MEDIA OR SOCIAL NETWORKING SITED ONCE MORE PRIOR TO COURT IN ORDER TO UPDATE YOUR INFORMATION AND GIVE THE COURT CURRENT DETAILS. THE SITE CAN ONLY BE ACCESSED A SECOND TIME FOR THE PURPOSES OF A COURT HEARING AND YOU MUST ACCESS THE SOCIAL MEDIA / SOCIAL NETWORKING SITES THOUGH COMMUNICATIONS.

IF YOU NEED TO ACCESS THIS SITE MORE THAN TWICE THIS COULD BE DIRECTED SURVEILLANCE AND YOU WILL NEED TO SPEAK TO A MEMBER OF LEGAL SERVICES AS YOU MAY REQUIRE RIPA AUTHORISATION FROM THE COURTS BEFORE YOU CAN DO THIS.

I CONFIRM I HAVE READ AND UNDERSTOOD THE ABOVE

.....

DATE

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SUBJECT: CORPORATE DOCUMENT REVIEW

DIRECTORATE: CHIEF EXECUTIVE'S AND TOWN CLERK

REPORT AUTHOR: BECKY SCOTT - LEGAL SERVICES MANAGER

PAT JUKES – BUSINESS MANAGER – CORPORATE POLICY

1. Purpose of Report

- 1.1 To provide an overview of corporate documents which have been approved by Full Council and Executive.

2. Executive Summary

- 2.1 The Council has many policies and strategies which have been approved by Full Council and the Executive and provide an essential framework for officers and/or members to work to. This report gives an overview of what these policies and strategies are to members.

3. Background

- 3.1 This Committee is, under its terms of reference, tasked with ensuring that the Council's policies meet the 'needs and aspirations' of the citizens of Lincoln. A project was commenced pre-pandemic to consider what corporate documents the Council had approved so that this Committee could review the position and ensure that they were both relevant and up to date, and to identify any gaps which may be evident.
- 3.2 There are a number of documents which also provide advice and guidance to officers and/or members which do not require approval, however support the work undertaken by the Council. These have been highlighted separately with the owners of the documents over the past few months to ensure that the review process is being undertaken as required in specific areas.
- 3.3 Therefore, the attached list has been compiled, at Appendix A, with the assistance of senior managers. The documents can all be found on the Council's system called Netconsent, albeit the Constitution is on the website only.
- 3.4 Members are asked to assist in the review of this list, and provide comments accordingly.

4. Strategic Priorities

- 4.1 By taking stock and thereafter monitoring these documents, the Council can be assured that there is an adequate framework in place to support the work and delivery of services accordingly and that in turn will assist in the delivery of the strategic priorities.

5. Organisational Impacts

5.1 Finance (including whole life costs where applicable)

There are no financial implications arising from this report.

5.2 Legal Implications including Procurement Rules

The corporate documents within the attached list may have a legal framework which is considered during their development and review.

5.3 Equality, Diversity and Human Rights

The Public Sector Equality Duty means that the Council must consider all individuals when carrying out their day-to-day work, in shaping policy, delivering services and in relation to their own employees.

It requires that public bodies have due regard to the need to:

- Eliminate discrimination
- Advance equality of opportunity
- Foster good relations between different people when carrying out their activities

Again, any such impact is considered during the development/review of the corporate documents.

6. Risk Implications

6.1 (i) Options Explored

This work is needed to keep track of the corporate documents we hold as an organisation.

6.2 (ii) Key risks associated with the preferred approach

None

7. Recommendation

7.1 That the list of corporate documents attached is considered and commented on accordingly.

Is this a key decision? No

Do the exempt information categories apply? No

Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply? No

How many appendices does the report contain?

One

List of Background Papers:

None

Lead Officer:

Becky Scott, Legal Services Manager
Telephone (01522) 873441

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Document Type	Document Name	Author Job Title
Communications Policies	Advertising Policy	Communications Manager
Corporate Food, Health and Safety Policies	Food Sampling Policy	Food, Health & Safety Manager
Environmental Health Policies	Contaminated Land Inspection Strategy	Scientific Officer - Contaminated Land
Human Resources Policies	Disturbance Policy	HR Associate
Human Resources Strategies	People Strategy	HR & WBL Manager
Legal and Freedom of Information Policies	RIPA Policy	Legal Services Manager
Major Developments Policies	Environmental Policy	Climate Change Manager
PPASB Policies	Noise Nuisance Policy	PPASB & Licensing Service Manager
BDIT Policies	Information Security Policy	Business Development & IT Manager
Building Control Policies	Building Control General Policy	Building Control Team Leader
Building Control Policies	Dangerous Structure and Demolition Policy	Building Control Team Leader
Building Control Policies	Enforcement Policy	Building Control Team Leader
Building Control Policies	Site Inspection Policy	Building Control Team Leader
Building Control Policies	Plans assessment and advisory service policy	Building Control Team Leader
CCTV Policies	Code of Practice	CCTV Manager
Corporate Food, Health and Safety Policies	Corporate H&S Policy 2019-2023	Food, Health & Safety Manager
Corporate Food, Health and Safety Policies	Health, Safety and Welfare Policy	Food, Health & Safety Manager
Corporate Food, Health and Safety Policies	Asbestos Policy	Food, Health & Safety Manager
Corporate Policy Guidance	Local Performance Management Framework	Business Manager - Corporate Policy
Corporate Policy Guidance	Corporate Governance Framework (Code)	Business Manager - Corporate Policy
Corporate Policy Policies	COLC Fairtrade Policy	Strategic Senior Policy Officer
Corporate Policy Policies	Gatherwell Data Protection Policy	Strategic Senior Policy Officer
Corporate Policy Policies	Protection from Source of Crime and Disorder	Strategic Senior Policy Officer
Corporate Policy Policies	Social Responsibility in Gambling Policy	Strategic Senior Policy Officer
Corporate Policy Policies	Fair and Open Gambling Policy	Strategic Senior Policy Officer
Corporate Policy Policies	Implementation Procedures Policy	Strategic Senior Policy Officer
Corporate Policy Policies	Children and Vulnerable Persons Protection Policy	Strategic Senior Policy Officer
Corporate Policy Policies	Equality, Diversity and Human Rights Policy	Business Manager - Corporate Policy
Corporate Policy Strategies	Corporate Consultation Strategy	Business Manager - Corporate Policy
Corporate Policy Strategies	be	Business Manager - Corporate Policy

Corporate Policy Strategies	Vision 2025 - Annual Delivery Plan	Business Manager - Corporate Policy
Customer Services Policies	Confidentiality Policy (Welfare Team)	Customer Services Manager
Customer Services Policies	Conflict of Interests Policy (Welfare officers)	Customer Services Manager
Customer Services Strategies	Customer Experience Strategy	Customer Services Manager
Finance Policies	Procurement Card Policy	Banking Officer
Finance Policies	Financial Procedure Rules	Financial Services Manager
Finance Policies	Anti bribery policy	Audit Manager
Finance Policies	Anti-Money Laundering	Audit Manager
Finance Policies	Counter Fraud Policy	Audit Manager
Finance Strategies	Medium Term Financial Strategy 2017-2022	Financial Services Manager
Finance Strategies	Risk Management Strategy	Chief Finance Officer
Finance Strategies	Treasury Management Strategy	Group Accountant
Housing Guidance	Trusted Landlord Scheme	Housing Standards and Enforcement Officer
Housing Policies	Family Intervention Policy	Tenancy Services Manager
Housing Policies	Rent Arrears Recovery Policy	Tenancy Services Manager
Housing Policies	Safeguarding Policy	Safeguarding Officer
Housing Policies	Lettings Policy	Assistant Director - Housing Management
Housing Strategies	Homelessness Strategy	Housing Solutions & Support Manager
Housing Strategies	Rough Sleeping Strategy	Housing Solutions & Support Manager
Housing Strategies	Tenant Involvement Strategy	Resident Involvement Manager
Housing Strategies	Tenancy Strategy	Tenancy Services Manager
Housing Strategies	Housing Strategy	Strategy and Investment Manager
Human Resources Policies	Dignity at Work Policy	HR and Payroll Team Leader
Human Resources Policies	Transgender Policy	HR and Payroll Team Leader
Human Resources Policies	Substance Misuse Policy	HR and Payroll Team Leader
Human Resources Policies	Sickness Policy	HR and Payroll Team Leader
Human Resources Policies	Trade Union Policy	HR and Payroll Team Leader
Human Resources Policies	Code of Conduct	HR and Payroll Team Leader
Human Resources Policies	Acting Up Policy	HR and Payroll Team Leader
Human Resources Policies	Training Policy	HR & WBL Manager
Human Resources Policies	Volunteer and Work Experience Policy	HR and Payroll Team Leader
Human Resources Policies	Smoking Policy	HR and Payroll Team Leader

Human Resources Policies	Severe Weather Disruption Policy	HR and Payroll Team Leader
Human Resources Policies	Maternity/Paternity/Adoption Leave Policy	HR and Payroll Team Leader
Human Resources Policies	Recruitment Policy	HR and Payroll Team Leader
Human Resources Policies	Whistleblowing Policy	Audit Manager
Human Resources Policies	Stress Policy	HR Associate
Human Resources Policies	Flexible Retirement Policy	HR Associate
Human Resources Policies	Train Season Ticket Loan Policy	HR Associate
Human Resources Policies	Probation Policy	HR Associate
Human Resources Policies	Long Service Award and Retirement Gift Policy	HR Associate
Human Resources Policies	Management of Change	HR Associate
Human Resources Policies	Flexible Working Policy	HR Associate
Human Resources Policies	Homeworking Policy	HR Associate
Human Resources Policies	Capability Policy	HR Associate
Human Resources Policies	Job Evaluation Policy	HR Associate
Human Resources Policies	Disciplinary Policy	HR Associate
Human Resources Policies	Death in Service Policy	HR Associate
Human Resources Policies	Leave Entitlement Policy	HR Associate
Human Resources Policies	Gift and Hospitality Corporate Guidance	HR Associate
Human Resources Policies	Pensions Policy Statement	HR Associate
Human Resources Policies	Redundancy Compensation Payments Scheme	HR Associate
Human Resources Policies	Mutually Agreed Resignation Scheme (MARS)	HR Associate
Human Resources Policies	Grievance Procedure	HR Associate
Human Resources Policies	Travel Policy	HR Associate
Information Governance and Data Protection Policies	Data Protection Breach Management Policy	Data Protection Officer
Information Governance and Data Protection Policies	Legal Responsibilities Policy	Data Protection Officer
Information Governance and Data Protection Policies	Information Sharing Policy	Data Protection Officer
Information Governance and Data Protection Policies	Data Quality Policy	Data Protection Officer
Information Governance and Data Protection Policies	Records Management Policy	Data Protection Officer
Information Governance and Data Protection Policies	Data Protection Policy	Data Protection Officer
Information Governance and Data Protection Policies	Information Governance Policy	Data Protection Officer
Information Governance and Data Protection Policies	Special Category and Criminal Offence Data Policy	Data Protection Officer
Legal and Freedom of Information Policies	Freedom of Information & EIR Policy	Data Protection Officer
Licensing Policies	Animal Policy	PPASB & Licensing Service Manager

Licensing Policies	Statement of Licensing Policy	Licensing Team Leader
Licensing Policies	Gambling Policy	Licensing Team Leader
Licensing Policies	Sex Establishment Policy	Licensing Team Leader
Licensing Policies	Hackney Carriage & Private Hire Policy	Licensing Team Leader
Major Developments Policies	Christmas Market Environmental Policy	Climate Change Manager
Major Developments Strategies	Town Investment Plan	Principal Development Officer
Major Developments Strategies	Growth Strategy 2014-2034	Major Developments Director
Planning Policies	HMO SPD	Planning Manager
Planning Policies	Code of Practise	Planning Manager
Planning Strategies	Central Lincolnshire Local Plan	Planning Policy Manager
PPASB Policies	Domestic Abuse Workplace Policy	PPASB & Licensing Service Manager
PPASB Policies	Anti-Social Behaviour Policy	PPASB & Licensing Service Manager
PPASB Policies	Fixed Penalty Notice Policy	PPASB & Licensing Service Manager
Procurement Policies	Contract Procedure Rules	Procurement Manager
Procurement Policies	Social Value Policy	Procurement Manager
Procurement Strategies	Local Purchasing Strategy	Procurement Manager
Recreation and Leisure Strategies	Physical Activity Strategy	Leisure Sport & City Services Manager
Revenues and Benefits Policies	North Kesteven Customer Feedback Policy	Revenues and Benefits Manager
Revenues and Benefits Policies	North Kesteven Customer Feedback Policy Apper	Revenues and Benefits Manager
Revenues and Benefits Policies	North Kesteven Customer Feedback Policy Apper	Revenues and Benefits Manager
Revenues and Benefits Policies	Fraud Sanction Policy	Revenues and Benefits Manager
Revenues and Benefits Policies	LHA Safeguarding Policy	Revenues and Benefits Manager
Revenues and Benefits Policies	Constitution and TOR - Shared Revenues and Ber	Revenues and Benefits Manager
Revenues and Benefits Policies	West Lindsey Discretionary Rate Relief Policy	Revenues and Benefits Manager
Revenues and Benefits Policies	Section 13A Policy	Revenues and Benefits Manager
Revenues and Benefits Policies	North Kesteven Discretionary Relief Policy	Revenues and Benefits Manager
Revenues and Benefits Policies	Fair Collection and Debt Recovery Policy	Revenues and Benefits Manager
Revenues and Benefits Policies	COLC Discretionary Relief Policy	Revenues and Benefits Manager
Revenues and Benefits Policies	Business Rates Growth Policy	Revenues and Benefits Manager

POLICY SCRUTINY COMMITTEE

11 JANUARY 2022

SUBJECT:	POLICY SCRUTINY WORK PROGRAMME 2021/22 AND EXECUTIVE WORK PROGRAMME UPDATE
REPORT BY:	CHIEF EXECUTIVE & TOWN CLERK
LEAD OFFICER:	CLAIRE TURNER, DEMOCRATIC SERVICES OFFICER

1. Purpose of Report

- 1.1 To present the Policy Scrutiny Committee Work Programme for 2021/22 and receive comments and considerations from members with items for the municipal year 2021/2022 and to advise Members of the items that are on the current edition of the Executive Work Programme.

2. Background

- 2.1 The work programme is attached at **Appendix A**.
- 2.2 The Constitution provides for the publication of the Executive Work Programme on a monthly basis detailing key decisions/ exempt para (Section B) items to be taken by the Executive, a committee of the Executive or a Member of the Executive during the period covered by the programme. This is attached at **Appendix B** and has been provided to assist members in identifying items for inclusion within the work programme.

3. Recommendation

- 3.1 That Members give consideration to the Policy Scrutiny Work Programme for 2021/22 and update where appropriate to include items which they wish to consider from the Executive Work Programme as required.

List of Background Papers: None

Lead Officer: Claire Turner, Democratic Services Officer
Telephone 873619

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Policy Scrutiny Committee Work Programme – Timetable for 2021/22

15 June 2021

Item(s)	Responsible Person(s)	Strategic Priority/ Comments
Public Toilet Review	Steve Bird	
Health Scrutiny Update	Chair of Policy Scrutiny	Regular Report
Policy Scrutiny Work Programme 2021 -2022	Democratic Services	Regular Report

24 August 2021

Item(s)	Responsible Person(s)	Strategic Priority/ Comments
Policy Scrutiny Work Programme 2020-2022 Update	Democratic Services	Regular Report
City of Lincoln Council Environmental Policy'	Kate Bell	
The Consultation & Engagement Strategy	Pat Jukes	
Draft Local Plan Consultation	Toby Forbes- Turner	
Protecting Vulnerable People	Paula Burton	Annual Update
Health Scrutiny Update	Chair of Policy Scrutiny	Regular Report

5 October 2021

Item(s)	Responsible Person(s)	Strategic Priority/ Comments
Policy Scrutiny Work Programme 2020 -2021	Democratic Services	Regular Report
St Peters Passage PSPO	Francesca Bell	

Health Scrutiny Update	Chair of Policy Scrutiny	Regular Report
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23 November 2021

Item(s)	Responsible Person(s)	Strategic Priority/ Comments
Building Safety-Resident Engagement Strategy	Chris Morton	
Draft COLC Decarbonisation Strategy and Action Plan Report	Kate Bell	
City of Lincoln Council CTS Scheme 2022/23	Martin Walmsley	
Policy Scrutiny Work Programme 2020-2021 Update	Democratic Services	Regular Report
Health Scrutiny Update	Chair of Policy Scrutiny	Regular Report

11 January 2022

Item(s)	Responsible Person(s)	Strategic Priority/ Comments
Policy Scrutiny Work Programme 2021-2022 Update	Democratic Services	Regular Report
Corporate Policy Review	Becky Scott	
RIPA Policy Update	Becky Scott	
Affordable Warmth Strategy	Kate Bell	
Health Scrutiny Update	Chair of Policy Scrutiny	Regular Report

15 February 2022

Item(s)	Responsible Person(s)	Strategic Priority/ Comments
Annual Delivery Plan (ADP) for Vision 2025 – for 2022-2023	Pat Jukes	

15 March 2022

Item(s)	Responsible Person(s)	Strategic Priority/ Comments
Scrutiny Annual Report	Democratic Services	
Policy Scrutiny Work Programme 2022-2023 Update	Democratic Services	Regular Report
Review of Facilities Strategy	Steve Lockwood	
Contaminated Land Inspection Strategy	Steve Lockwood	
Health Scrutiny Update	Chair of Policy Scrutiny	Regular Report
Recycling- paper and card collections proposal	Steve Bird	

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EXECUTIVE WORK PROGRAMME

December 2021 - November 2022

NOTES

1. The Leader in consultation with the Chief Executive and Town Clerk prepares an Executive Work Programme to cover a period of twelve months.
2. The Executive Work Programme contains matters which the Leader has reason to believe will be the subject of a key decision during the period covered by the Plan or Executive decisions which are likely to be taken in private.
3. A Key Decision is one which is likely:
 - a) to result in the Local Authority incurring expenditure which is , or the making of savings which are, significant having regard to the Local Authority's budget for the service or function to which it relates; or
 - b) to be significant in terms of its effect on communities living or working in an area comprising 2 or more wards in the area of the local authority.
4. Whilst the majority of the Executive's business at the meetings listed in the Executive Work Programme will be open to the public and media organisations to attend, there will be some business to be considered that contains, for example, confidential, commercially sensitive or person information.

This document serves as formal notice under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 that certain items in the Executive Work Programme will be considered in private because the item contains exempt information under Part 1 of Schedule 12A to the Local Government Act 1972 (as amended) and that the public interest in withholding the information outweighs the public interest in disclosing it. If an item is to be considered in private this will indicated on the individual decision notice.

If you have any queries, please telephone 01522 873387 or email democratic.services@lincoln.gov.uk.

EXECUTIVE WORK PROGRAMME SUMMARY

Date of Decision	Decision	Decision: Summary	Decision Taken By	Key Decision	Exempt Information
13 December 2021	City of Lincoln Council Decarbonisation Strategy and Action Plan	To approve the Strategy	Executive	No	Public
13 December 2021	Telephony Replacement	To seek approval and funding for a procurement and implementation of MS Teams telephony.	Executive	No	Private
13 December 2021	40-42 Michaelgate and 20-22 Steep Hill	To update members on progress made to seek external funding to refurbish 40-42 Michaelgate and 20-22 Steep Hill, to approve a partnership agreement with Heritage Lincolnshire and approve an element of match funding as the Council's contribution.	Executive	Yes	Public
13 December 2021	Write Outs of Irrecoverable Non Domestic Rates, Sundry Debts and Overpayment of Housing Benefit	Executive to consider/approve specified write outs of Non Domestic Rates, Sundry Debts and Overpayment of Housing Benefits.	Executive	Yes	Private
04 January 2022	Transfer of land at Jasmin Green to Birchwood Community Land Trust	To consider transfer of land at Jasmin Green	Executive	No	Partly Private
04 January 2022	Collection Fund Surplus./Deficit - Council Tax	To declare a surplus or deficit on the Council Tax element of the Collection Fund for 2021/22	Executive	Yes	Public
04 January 2022	Council Tax Base 2022/23	To approve City of Lincoln Council's Council Tax Base 2022/23	Executive	Yes	Public

04 January 2022	Localised Council Tax Support Scheme 2022/23	To approve for referral to Council, a Localised Council Tax Support Scheme 2022/23	Executive	Yes	Public
04 January 2022	Statement of Accounts 20/21	Scrutinise the Statement of Accounts and make any comments to full Council	Executive	No	Public
17 January 2022	Draft Medium Term Financial Strategy 2022-2027	To agree for consultation and scrutiny the draft Medium Term Financial Strategy 2022-2027.	Executive	No	Public
17 January 2022	De Wint Court - Fees and Charges	To approve fees and charges.	Executive	Yes	Partly Private
17 January 2022	Lincare Review	To agree a way forward for the Lincare services following a review of the current service	Executive	Yes	Private
17 January 2022	Hermit Street	To agree to progress regeneration proposals at Hermit Street.	Executive	Yes	Partly Private
17 January 2022	Collection Fund Surplus./Deficit - Business Rates	To declare a surplus or deficit on the Business Rates element of the Collection Fund for 2021/22	Executive	Yes	Public
17 January 2022	Greetwell Place Managed Workspace - Future Arrangements	Nature of the City Council's involvement in the operation of Greetwell Place	Executive	Yes	Private
17 January 2022	Lincoln Central Market	Details of progressing to entering into a contract for delivery	Executive	Yes	Private

17 January 2022	Council House and Garage Rents 2022/2023	To agree the basis of rent calculation for changes to individual Council houses and garage rent prior to seeking approval of Council.	Executive	Yes	Public
17 January 2022	Hartsholme Park Flood Alleviation Work	To agree a proposal for work to the lake outlet.	Executive	No	Public
21 February 2022	Sustainable Warmth Strategy	To approve the Strategy	Executive	No	Public
21 February 2022	Medium Term Financial Strategy 2022-2027	To recommend for referral to Full Council the Medium Term Financial Strategy 2022-2027 along with the Capital Strategy 2022-2027.	Executive	No	Public
21 February 2022	Council Tax 2022-2023	To approve for referral to Full Council the Council Tax requirement and overall levels of Council Tax for 2022-23	Executive	No	Public
21 February 2022	Operational Performance Quarterly Monitoring Report	To present to Members a summary of the operational performance position for quarter three of the financial year 2021/22 (from Oct 2021 to December 2021)	Executive	No	Public
21 February 2022	Financial Monitoring Quarterly Review	To present to Executive the third quarter's financial performance 2021/22	Executive	No	Public
21 February 2022	Strategic Risk Register Quarterly Review	To provide the Executive with a status report of the revised Strategic Risk Register as at the end of the third quarter 2021/22.	Executive	No	Partly Private
21 February 2022	Draft Building Safety Engagement Strategy	To approve the Resident Engagement Strategy for Building Safety 2021	Executive	No	Public

21 February 2022	Living Wage Report	To recommend to Executive the proposed increase to the living wage	Executive	Yes	Public
21 February 2022	Pay Policy 2022/23	To request Executive approval for the COLC Pay policy 2022/23, prior to referral to Council.	Executive	No	Public
21 February 2022	Vision 2025 - Annual Delivery Plan for 2022/23	Executive is asked to approve the Vision 2025 Annual Delivery Plan for 2022/23, for submission to Council	Executive	Yes	Public
21 March 2022	Recycling- paper and card collections proposal	To formally commit to the Lincolnshire Waste Partnership initiative to undertake separate paper and card collections, alternate to existing general recycling collections, where it can reasonably be accommodated.	Executive	Yes	Public
12 April 2022	CCTV Code of Practice Review	Renewal of CoP, including any recommended changes.	Executive	No	Public
24 May 2022	Financial Monitoring Quarterly Review	To present to Executive the fourth quarter's financial performance 2021/22	Executive	No	Public
24 May 2022	Strategic Risk Register Quarterly Review	To provide the Executive with a status report of the revised Strategic Risk Register as at the end of the fourth quarter 2021/22.	Executive	No	Partly Private
24 May 2022	Operational Performance Quarterly Monitoring Report	To present to Members a summary of the operational performance position for quarters four of the financial year 2021/22 (from January 2022 to March 2022)	Executive	No	Public
24 May 2022	Treasury Management Stewardship & Actual Prudential Indicators Report 2021/22 (Outturn)	To report on the annual Treasury Management Stewardship Report under regulations issued under the Local Government Act 2003.	Executive	No	Public

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