



## THE POLICE & CRIME COMMISSIONER FOR CLEVELAND

### DECISION RECORD FORM

**REQUEST:** For PCC approval.

**Title:** Weightmans LLP Report on the Review of RIPA Applications by Cleveland Police PSD between 2011 and 2017

**Executive Summary:**

The Investigatory Powers Tribunal (IPT) decision in 2016 found that the Professional Standards Department (PSD) of Cleveland Police had inappropriately sought and obtained authorisations under and within PSD in relation to the use of powers to obtain communications data.

Both the former Police & Crime Commissioner for Cleveland and the then Chief Constable recognised the seriousness of the issues which emerged in the course of the IPT hearing. A decision was made (Decision Notice 2016-23430) to proactively determine whether the apparent failings in this one case, may or may not be symptomatic of individual, institutional or systemic failings and accordingly the Commissioner and Chief Constable agreed to conduct a full audit and review of cases dealt with by PSD (including the Anti-Corruption Unit), between 2011 and 2017 in which telephone communications data authorisation was sought.

Accordingly the former Police and Crime Commissioner for Cleveland (in conjunction with the then Chief Constable) appointed Weightmans LLP to carry out a specialist legal compliance review, for the period since 1st January 2011 to 30 June 2017, with a view to determining whether RIPA authorisations were sought in a procedurally and legally correct manner and authorised in accordance with all relevant legislation, case law, and guidance.

The specification for the review required that the resulting report would be suitable for publication, subject to the Chief Constable's discretion as to operational sensitivity, and subject to other compelling public interest considerations. The specification also made provision to the effect that there should be no obligation upon the Contractor to share data (obtained or generated in the process of provision of the Services) with the Police and Crime Commissioner in circumstances in which the Chief Constable considered that such data was operationally sensitive in nature and whose disclosure to the Police and Crime Commissioner would be other than in accordance with normal operational principles.

The Weightmans LLP review is now complete and as part of a pre-publication process Weightmans LLP invited key stakeholders to attend at their offices to inspect the report and, where applicable, to raise any issues with the content of the report. The invitation to inspect the full report included interested parties and included the Investigatory Powers Commissioner's Office, the Independent Office of Police Conduct.

The stakeholder engagement has been conducted independently by Weightmans LLP and has resulted in a short Addendum to the report that takes account of the responses provided during the stakeholder engagement stage.

This Decision Notice records the decision of the Acting Police and Crime Commissioner in respect of publication (in full or in part) of the Weightmans LLP Report and the Addendum report.

The Acting PCC and Chief Constable of Cleveland Police continue the original commitment to publish the full Report and Addendum by Weightmans LLP. This commitment was also made to relevant parties to the IPT findings into the unlawful use of RIPA authorisations.

**Decision:**

After consideration with the Chief Constable, following updates to Cleveland Police in respect of the progress and status of the IOPC’s managed investigation (under Op Forbes), and after consultation with the Independent Ethics Committee, it is the joint sponsors’ decision not to publish either part or all of the Weightmans LLP Review or its Addendum report until the conclusion of the IOPC managed investigation. This is a finely balanced decision. The reasons for this decision are as follows:

- The Weightmans LLP Review is a matter of public interest both in terms of the costs arising in the review and the nature of the review. The Review report and Addendum have been finalised. There remains a commitment to publish the report in full and the addendum to it, at the appropriate time.
- The ongoing nature of the IOPC managed investigation means that publication of material which relates to the substance of the investigation would or could be prejudicial to the investigation.
- The IOPC managed investigation is considering matters that may result in proceedings and the investigation is still ongoing. The public interest in publishing the Weightmans LLP findings must be balanced with the public interest in ensuring that live investigations are not undermined or influenced by the Weightmans LLP Review report.
- The IOPC managed investigation is a live and in-depth investigation and release of the Weightmans LLP Review would therefore be inappropriate.
- Representations from stakeholders during the pre-publication process conducted by Weightmans LLP raised concerns about the publication of the review findings whilst the IOPC managed investigation had not concluded.

It is the joint sponsors’ view that the above status of the IOPC managed investigation engages the Chief Constable’s discretion as to operational sensitivity and is a compelling public interest consideration.

The commitment to publish in full is undiminished and there is a clear commitment by the joint sponsors to do so at the conclusion of the IOPC managed investigation. This will remain subject to the ongoing caveat that the publication of the report will remain subject to the Chief Constable’s discretion as to operational sensitivity, and subject to other compelling public interest considerations.

There are no anticipated additional costs incurred in awaiting the conclusion of the ongoing investigation before publishing.

**OPCC Lead Officer:** Rachelle Kipling

**Contractor Details (if applicable):**

**Implications:**

Has consideration been taken of the following:	Yes	No	
Financial	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

Legal	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Equality & Diversity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Human Rights	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Sustainability	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Risk	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<b>(If yes please provide further details below)</b>			

### Decision Required – Supporting Information

Financial Implications: (Must include comments of the PCC’s Chief Finance Officer where the decision has financial implications)

The total costs envisaged at the start of the review were £112,500 based on the review of 86 files containing use of the Regulation of Investigative Powers Act 2000. However following the commencement of the work a further 52 files were identified that required review to ensure that the review covered all of the known files. This increase in the number of files subject to review increased the overall budget for this work to £160,000.

With the review work complete, and as part of a pre-publication process, Weightmans were asked to invite key stakeholders to attend at their offices, if they wanted to, to inspect the report and, where applicable, to raise any issues with the content of the report. The invitation to inspect the full report included interested parties and included the Investigatory Powers Commissioner’s Office and the Independent Office of Police Conduct.

As Weightmans had carried out the original review, it was agreed that they should be the most appropriate party to facilitate stakeholder / post stakeholder sessions with relevant parties prior to publication. This work was agreed by sponsors to be separate to the original RIPA Contract and cost a further £25,170. This sum included the cost of the stakeholder facilitation, consideration of stakeholder feedback and the subsequent production of the addendum report.

Since the commencement of the project in January 2017, the total costs to date paid to Weightmans total £185,170.

Legal Implications: (Must include comments of the Monitoring Officer where the decision has legal implication)

Legal considerations are covered within the main body of the decision record form.

### Equality and Diversity Implications

None arising.

### Human Rights Implications

None arising.

Sustainability Implications

None arising.

Risk Management Implications

None arising.

**OFFICER APPROVAL**

**Monitoring Officer**

I have been consulted about the decision and confirm that financial, legal, and equalities advice has been taken into account. I am satisfied that this is an appropriate request to be submitted to the Police and Crime Commissioner.

Signed



Date 01/02/2021

**Police and Crime Commissioner:**

The above request HAS my approval.

Signed



Date 01/02/2021