

Shropshire Council
Equality, Social Inclusion and Health Impact Assessment (ESHIA)
Initial Screening Record 2021-2022

A. Summary Sheet on Accountability and Actions

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| Name of proposed service change |
| Regulation of Investigatory Powers Policy and Guidance <ul style="list-style-type: none"> • Use of Directed Surveillance • Use of Human Intelligence Sources • Obtaining Communications Data |

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| Name of lead officer carrying out the screening |
| Frances Darling, Head of Business and Consumer Protection |

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| Decision, review, and monitoring |
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| Decision | Yes | No |
|---|-----|----|
| Initial (part one) ESHIA Only? | ✓ | |
| Proceed to Full ESHIA or HIA (part two) Report? | | ✓ |

If completion of an initial or Part One assessment is an appropriate and proportionate action at this stage, please use the boxes above. If a Full or Part Two report is required, please move on to full report stage once you have completed this initial screening assessment as a record of the considerations which you have given to this matter.

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| Actions to mitigate negative impact or enhance positive impact of the service change in terms of equality, social inclusion, and health considerations |
| <p>As the primary focus of the Policy relates to formalising the Council’s approach to an existing prescriptive legislative regime controlling surveillance activities, which is supported by statutory codes of practice and aimed at protecting individuals’ right to privacy, it is anticipated that the overall impact of the Policy in relation to equality and social inclusion in respect of all protected characteristic and other groupings is likely to be neutral.</p> <p>With respect to health and wellbeing, the overarching impact is likely to be low to medium positive for the community, economy and the environment, with the potential for both low positive and low negative impacts for individuals/population groups; therefore, the assessment around necessity and proportionality of any surveillance activity is key to ensuring this position is maintained or potentially enhanced.</p> |

The processes described in the Policy set out to provide assurance that before, during and after any surveillance is proposed and/or undertaken, due consideration is given to the necessity and proportionality of such activity. The focus of this consideration is about protecting individuals' right to privacy, and as such the Human Rights Act (HRA) 1998 provides a useful reference point in our considerations as a Council about potential equality and human rights impacts for all groupings in our community.

An holistic approach will be taken with the full circumstances of any individual or group of individuals who is/are the intended target of surveillance and also those who are not the intended target taken into account as part of the management and formal authorisation of any surveillance activities.

For example, in respect of surveillance that falls outside of the Regulation of Investigatory Powers Act 2000 (RIPA), the Policy requires RIPA procedures to be followed and states:

- 21.1 *For directed surveillance under RIPA, the criminal offence under investigation must carry a minimum of a **6 months' imprisonment sentence** (directed surveillance serious crime threshold) or relate to the sale of alcohol or tobacco to children. This means that there are scenarios within an investigation that do not meet this threshold; nevertheless, surveillance may still be necessary for the purposes of the investigation. This surveillance will fall outside of RIPA ('non-RIPA') and includes surveillance relating to:*
- *anti-social behaviour disorder which does not attract a maximum custodial sentence of at least six months' imprisonment*
 - *planning enforcement prior to the serving of a notice or to establish whether a notice has been breached*
 - *most licensing breaches*
 - *safeguarding vulnerable people*
 - *civil matters*
 - *disciplinary matters*
- 21.2 *The above scenarios are likely to be targeted surveillance, which may breach an individual's Article 8 rights to privacy and, therefore, the activity must be conducted in a way that is HRA compliant, which will include consideration as to the necessity and proportionality of the surveillance activity.*
- 21.3 *To ensure that the above surveillance is undertaken in a manner that is compatible with HRA, officers must have due regard to the principles of RIPA, the Codes, and this Policy and, in practice, apply these as if the purposes for which the surveillance is being used fall within RIPA.*

In addition, with respect to the role of an Authorising Officer (AO), the Policy makes it clear that specific advice must be sought when targeted individuals are already known to social services or where there is reasonable belief that individuals may be eligible for services:

44.8 Where there is any indication that an application for an authorisation may target or relate to individuals already known to social services (particularly in relation to individuals with learning disabilities and/or behaviour that is impacted by mental health) or where there is reasonable belief that individuals may be eligible for such services, the AO responsible for determining the application must take advice from the appropriate social care Assistant Director or Service Manager to inform their decision as to whether the surveillance will be necessary and/or proportionate and to determine if there are any alternative courses of action that are more appropriate.

Furthermore, the overarching position that must be adopted when considering surveillance activities is clearly stated in the following paragraph from the Policy:

44.9 If AOs do not believe that the surveillance is necessary and proportionate to what it seeks to achieve or if other less intrusive methods may be used to obtain the information or insufficient steps are in place to reduce collateral intrusion, AOs must not grant authorisation.

Actions to review and monitor the impact of the service change in terms of equality, social inclusion, and health considerations

The Policy will initially be set and agreed by the Council's Cabinet members. These elected members will consider the use of the RIPA and the Investigatory Powers Act 2016 (IPA) to ensure the Policy is consistent with these legislative provisions and also those of the European Convention on Human Rights (ECHR) and the Human Rights Act 1998 (HRA).

The use of RIPA, IPA and non-RIPA by Council officers has and will continue to be reported to the Audit Committee on a regular basis. Where the Audit Committee is satisfied that RIPA, IPA and non-RIPA practices are being used consistently within the Policy and that the Policy remains fit for purpose then the Policy may continue to operate without wider consideration or revision by Cabinet. Where there are any concerns about the manner in which RIPA, IPA and non-RIPA practices are being used or that the policy is not fit for purpose, the Audit Committee may direct that these concerns are reported to Cabinet or, if necessary, to full Council and require the Senior Responsible Officer to oversee a review and revision of the Policy to ensure it is fit for purpose.

The governance structure is set out in Appendix A of the Policy. Those Council officers who undertake the governance roles (listed below) will be subject to externally provided training, and this will assist in consideration of any actions that may be required to mitigate any negative impacts or enhance any positive impacts arising from the Policy's approval and implementation. This is notwithstanding that equality, social inclusion, human rights and health impacts are anticipated to be broadly neutral.

- Senior Responsible Officer
- Monitoring Officer
- RIPA Co-ordinator
- Data Protection Officer
- Authorising Officers x 4

These officers are specifically designated for the purposes of RIPA and IPA and referred to by role within the Policy. In addition, manager and general staff awareness training will, over time, be embedded across the Council. It is anticipated that this will mirror the way in which data protection and cyber security training is currently delivered. The application and authorisation process is set out in detail within the Policy.

The Council's authorisation for either directed surveillance or CHIS activity can only take effect once an Order approving the authorisation has been granted by a Justice of the Peace (JP). This level of approval is not required for non-RIPA activity, which is dealt with wholly by the Council; hence it is key that the Council's managers and authorising officers are trained and understand their responsibilities.

A central record of RIPA/non-RIPA activity is maintained by the Council's RIPA coordinator and quarterly meetings of the RIPA working group will monitor this activity internally. This will include overseeing the reporting, to IPCO, of any relevant and serious errors in accordance with statutory requirements. This includes details about the cause of the error; the amount of surveillance conducted, and material obtained or disclosed; any unintended collateral intrusion; any analysis or action taken; whether any material has been retained or destroyed; and a summary of the steps taken to prevent recurrence.

Any person who reasonably believes they have been adversely affected by surveillance activity by or on behalf of the Council may complain to the Council in accordance with the Council's [Corporate Complaints and Representations Procedure](#) and a complaint may also be made to the IPT, which has jurisdiction to investigate and determine complaints against the Council's use of RIPA powers, including those covered by this Policy.

An annual report of surveillance activity under RIPA is submitted to the Investigatory Powers Commissioner's Office (IPCO) by the RIPA Co-ordinator. This facilitates the independent oversight, which is provided by IPCO and the Investigatory Powers Tribunal (IPT), for both RIPA and IPA in respect of the way in which covert activities are utilised.

Associated ESHIAs

This is the first ESHIA screening in relation to the specific use of surveillance related investigatory powers. There are currently no other associated ESHIAs or ESHIAs.

The Policy fits into the Council's general approach towards regulation and enforcement. The general principles are set out in the Council's Better Regulation and Enforcement Policy [[Better regulation and enforcement policy | Shropshire Council](#)].

The Policy takes account of and identifies the cross over with other policies, legislation and guidance, particularly with the HRA, the Data Protection Act 2018 (DPA), the General Data Protection Regulations (GDPR), the Criminal Procedure and Investigations Act 1996 (CPIA) and the National Police Chiefs Council (NPCC) Guidance on Open Source Investigation/Research.

The Policy does not provide detailed guidance with respect to obtaining communications data. Officers must refer to the Communications Data Code of Practice, specifically the Local Authority Procedures in section 8.

Actions to mitigate negative impact, enhance positive impact, and review and monitor overall impacts in terms of any other considerations. This includes climate change considerations

Climate change

There are no direct negative or positive climate change or other environmental impacts associated with the introduction of this Policy that indicate the need for any additional mitigation or enhancing actions. However, surveillance activities can be utilised to increase the effectiveness of environmental legislation that the Council has responsibility for enforcing, e.g. preventing fly-tipping/littering, monitoring effectiveness of pollution controls, etc. Providing the procedures within the Policy are followed, this will ensure the surveillance remains lawful and the risk of challenge is minimised.

Health and wellbeing

With respect to health and wellbeing, the overarching impact is likely to be positive for the community, economy and the environment, with the potential for both positive and negative impacts for individuals/population groups; therefore, the assessment around necessity and proportionality of any surveillance activity is key to ensuring this position is maintained or potentially enhanced.

Nevertheless, where surveillance leads to direct investigation and potentially formal legal proceedings against individuals for criminal offences or internal disciplinary proceedings in relation to employment matters, there is a risk that the health and wellbeing of the offenders/employees concerned and family members may be adversely impacted; however, there are likely to be minimal numbers involved and should it occur, there are separate systems in place to address this both in the criminal justice system and through internal and external employment related support mechanisms.

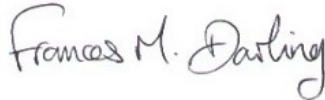
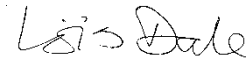

Surveillance activities can be utilised to increase the effectiveness of legislation that aims to protect the public and legitimate businesses, e.g. disrupting and preventing the supply of illicit tobacco and counterfeit alcohol, reducing neighbourhood noise nuisance and anti-social behaviour, tackling the activities of rogue landlords, supporting effective planning and housing standards enforcement, addressing unauthorised school absences, preventing the supply of age-restricted products such as alcohol and tobacco to children, reducing the financial detriment caused by scams and the financial abuse that arises from doorstep crime, etc. Providing the Policy is followed, this will ensure any surveillance undertaken in relation to such matters remains lawful and the risk of challenge is minimised.

There is unlikely to be any real change in demand for or access to health and social care services.

Economic and societal/wider community

Carrying out enforcement functions in a fair, practical and consistent manner helps to maintain a fair and safe society and grow and promote a prosperous and thriving national and local economy. The surveillance activities identified in the Policy, if used lawfully, support these aims by protecting legitimate businesses from unfair, unsafe and fraudulent trading practices.

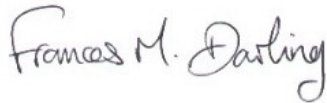
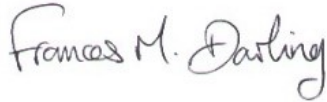
Scrutiny at Part One screening stage

| People involved | Signatures | Date |
|--|--|--|
| <p><i>Lead officer carrying out the screening</i></p> <p>Frances Darling, Head of Business and Consumer Protection</p> |  | <p>20 December 2021</p> |
| <p><i>Any internal service area support*</i></p> | <p>N/A</p> | <p>N/A</p> |
| <p><i>Any external support**</i></p> <p>Lois Dale, Rurality and Equalities Specialist</p> <p>Amanda Cheeseman, Public Health Development Officer</p> |   | <p>22nd December 2021</p> <p>7 January 2022</p> |

***This refers to other officers within the service area**

****This refers to support external to the service but within the Council, e.g., the Rurality and Equalities Specialist, the Feedback and Insight Team, performance data specialists, Climate Change specialists, and Public Health colleagues**

Sign off at Part One screening stage

| Name | Signatures | Date |
|--|--|-----------------------|
| <p><i>Lead officer's name</i></p> <p>Frances Darling, Head of Business and Consumer Protection</p> |  | <p>6 January 2022</p> |
| <p><i>Accountable officer's name*</i></p> <p>Frances Darling, Head of Business and Consumer Protection</p> |  | <p>6 January 2022</p> |

**This may either be the Head of Service or the lead officer*

B. Detailed Screening Assessment

| Aims of the service change and description |
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| <p>The Regulation of Investigatory Powers Policy and Guidance ('the Policy') sets out the approach the Council will take with respect to the authorisation and use of surveillance activity to deliver the Council's statutory and public duties, whilst protecting individuals' right to privacy.</p> <p>The Policy aims to ensure that any surveillance activities undertaken by the Council are compatible with the human right to privacy by ensuring compliance with the requirements of the Regulation of Investigatory Powers Act 2000 (RIPA), the Investigatory Powers Act 2016 (IPA), the European Convention on Human Rights (ECHR) and the Human Rights Act 1998 (HRA).</p> <p>Covert activity can result in private information being obtained about individuals without their knowledge, which, unless the Council gives full and proper consideration to such activity in accordance with RIPA and IPA and also ECHR and HRA, may lead to the Council breaching individuals' right to privacy. The new Policy is designed to provide the basis upon which the Council will ensure full and proper consideration is given before, during and after any surveillance activity is undertaken.</p> <p>The Policy will:</p> <ul style="list-style-type: none"> • bring the Council's position on surveillance up to date; • reduce the risk of challenge associated with having an out-of-date policy and guidance in force; |

- address the specific recommendation by IPCO that the existing policy and guidance be reviewed and updated; and
- provide the basis upon which officers will undertake lawful surveillance activities.

RIPA and IPA provide the legislative framework that governs the use of covert activities by public authorities, which includes local authorities. When public authorities use covert activities, they must do so in a way that is necessary, proportionate, and avoids (or where this is not possible minimises) the impact of the covert activities on other people who are not the subject of the operation or investigation (collateral intrusion); thus ensuring that the covert activities used are compatible with human rights. RIPA and IPA set out authorisation procedures to help ensure that this compatibility is achieved.

RIPA and IPA are supported by a number of statutory Codes of Practice ('the Codes') issued pursuant to Section 71 of RIPA and Section 241 of IPA. Local authorities must have regard to the provisions of the Codes. Non-compliance does not of itself render any person, including the Council, liable to criminal or civil proceedings, unless it relates to communications data being obtained unlawfully, in which case this may give rise to criminal offences. The Codes are admissible as evidence in criminal and civil proceedings. If any provisions of the Codes appear relevant to any court or tribunal considering such proceedings, or to the IPT or IPCO, they must be taken into account. Local authorities may also be required to justify, with regard to the Codes, the use or granting of authorisations in general or the failure to use or grant authorisations where appropriate.

Surveillance involves both the:

- monitoring, observing or listening to persons, their movements, their conversations or their other activities or communications; and
- the recording anything monitored, observed or listened to in the course of surveillance, with or without the assistance of a device.

Covert surveillance that may be authorised by a local authority is restricted to:

- directed surveillance;
- the use of covert human intelligence sources (CHIS), i.e. using undercover officers or informants to obtain information; and
- obtaining communications data, i.e. the 'who', 'where', 'when', 'how' and 'with whom' in relation to a telephone call, email, social media message, website communication, postal letter or couriered parcel, etc., but not what is written or said (the content) within that communication.

For local authorities, authorisation for directed surveillance can only be granted if it is to be carried out for the purpose of preventing or detecting criminal offences that:

- meet the 'serious crime threshold', i.e. are punishable by a maximum term of at least 6 months' imprisonment; or
- constitute an offence in relation to the sale of alcohol or tobacco to minors.

Authorisation for directed surveillance for the purpose of preventing disorder can only be granted if it involves criminal offences that meet the serious crime threshold.

The lawful grounds for a CHIS authorisation is prevention and detection of crime and prevention of disorder. The serious crime threshold does not apply to a CHIS.

The Council's authorisation for either directed surveillance or CHIS activity can only take effect once an Order approving the authorisation has been granted by a Justice of the Peace (JP).

With respect to communications data, the Council can only obtain events data¹ for the purpose of preventing or detecting serious crime² and, for any other type of communications data, for the purpose of preventing or detecting crime or of preventing disorder. This is undertaken through the Office for Communications Data Authorisations (OCDA) and applications are submitted to OCDA by the National Anti-Fraud Network (NAFN) on behalf of the Council.

Although RIPA provides for the authorisation of directed surveillance and the use of CHIS, it is not unlawful if an authorisation is not sought for these activities and there is no duty on a local authority to comply with the RIPA provisions; it is permissive law. However, the Codes make it clear that there is an expectation that local authorities will comply with the requirements of RIPA.

RIPA ensures that any surveillance conduct, which is undertaken following the correct authorisation and approval from a Justice of the Peace, and communications data obtained under IPA through OCDA via NAFN, is lawful. These processes protect the Council from legal challenge and renders evidence obtained lawful for all purposes.

A public authority may only engage RIPA and IPA when performing its 'core functions'. The core functions (referred to by the IPT) are the specific public functions undertaken by a particular authority insofar as they relate to the grounds specified under RIPA and IPA; for local authorities these grounds are limited to preventing or detecting crime or preventing disorder and are further restricted with respect to directed surveillance as set out above. This is in contrast to the 'ordinary functions' which are those undertaken by all authorities, e.g. those involving employment issues, contractual arrangements, etc. Covert activities in relation to ordinary functions, or for any other general purposes, are conducted under other legislation and authorisations under RIPA or IPA would not be appropriate.

Where covert activities are carried out for any purpose that falls outside the RIPA regime ('non-RIPA'), e.g. for the purposes of investigating internal Council disciplinary matters or where the 'serious crime threshold' is not met, the Council may still use the covert activities described in RIPA and IPA. To ensure that the covert activities used for these non-RIPA purposes are still used in a manner that

¹ Events data - refer to the telecommunications definitions in IPA at section 261

² Under IPA, the definition of 'serious crime' differs to that under RIPA. Refer to IPA sections 86(2A) and 263(1) for further details.

is compatible with human rights, the Council ought to have due regard to the principles of RIPA and IPA, the Codes, and any relevant RIPA/IPA guidance and apply these as if the purposes for which the activities are being used do fall within the RIPA/IPA regime. For this reason, non-RIPA matters are also covered in the Policy.

The relevant Codes issued by the Secretary of State pursuant to Section 71 of RIPA and Section 241 of IPA have been revised during the period since the existing policy was adopted by the Council in 2015. The new Policy takes account of the changes contained within the Codes as well as updating officer details and responsibilities relating to the:

- Senior Responsible Officer
- RIPA Coordinator
- Appointment of officers to grant authorisations under Sections 28 and 29 of RIPA

If the Council fails to prepare and maintain a policy and supporting guidance, the Council will be open to criticism from IPCO and it will fail to have in place duly authorised/designated officers to undertake the roles required by the relevant legislation. Furthermore, it will be more difficult to respond to challenges about the way in which the Council has undertaken covert activities. This may lead to any one or more of the following:

- service complaints to the Local Government and Social Care Ombudsman
- judicial review
- evidence in cases where the Council has instituted legal proceedings being held inadmissible in court
- civil action being taken against the Council for acting in a way that is incompatible with an individual's human rights
- financial risks in respect of compensation for breaching an individual's human rights
- reputational damage to the Council
- criminal convictions for officers if communications data is obtained unlawfully

The increase in digital technology has created significant opportunities for Council officers to undertake covert activities for the purposes of service delivery, particularly by accessing the internet and social media platforms on mobile devices (particularly smartphones and tablets), without realising that surveillance of individuals is actually being undertaken. As a result, the necessary safeguards to minimise the risks relating to breaches of an individual's privacy may not be in place and the likelihood of the risks, as set out above, occurring may increase.

By preparing and maintaining a policy and guidance, the Council will:

- demonstrate it takes the regulation of investigatory powers seriously;
- provide a defined framework within which the Council will exercise its responsibilities;
- make it clear to all stakeholders the manner in which the Council intends to operate;
- ensure that the Council has sufficient appropriately authorised/designated officers;

- provide the basis for a robust defence to any challenges that may be made about covert activities undertaken by the Council; and
- support officers to act lawfully and, as far as is reasonably practicable, minimise the impact on individuals' privacy.

Intended audiences and target groups for the service change

- All employees of Shropshire Council
- Animal and Plant Health Agency
- Employees who breach or may breach contractual employment requirements
- Environment Agency
- Food Standards Agency
- Forestry Commission
- Gambling Commission
- Her Majesty's Revenue and Customs
- Home Office - Immigration Enforcement
- Individuals and businesses who commit or may commit criminal offences
- Individuals/members of the public who may become the subject of collateral intrusion as a result of surveillance activities
- Investigatory Powers Commissioner's Officer (IPCO)
- Legal professionals
- Local elected councillors
- Local elected MPs
- Natural England
- Office of Product Safety and Standards
- Shropshire Council services/functions that have an internal or external enforcement/monitoring role, particularly, but not limited to:
 - audit
 - building control
 - council tax
 - education welfare
 - environmental health
 - environmental maintenance
 - housing
 - human resources
 - licensing
 - planning
 - rights of way
 - revenues and benefits
 - trading standards
- Town and parish councils
- West Mercia Police and Crime Commissioner
- West Mercia Police and other police forces, particularly neighbouring forces

Evidence used for screening of the service change

Shropshire Council's Regulation of Investigatory Powers Policy adopted on 1 October 2015 [[RIPA policy | Shropshire Council](#)]

Regulation of Investigatory Powers Act 2000 [[Regulation of Investigatory Powers Act 2000 \(legislation.gov.uk\)](#)]

Investigatory Powers Act 2016 [[Investigatory Powers Act 2016 \(legislation.gov.uk\)](#)]

Statutory Codes of Practice issued by the Secretary of State pursuant to Section 71 of RIPA and Section 241 of IPA [[RIPA codes - GOV.UK \(www.gov.uk\)](#)]

Guidance issued by the Home Office, IPCO and the Information Commissioner's Office (ICO).

The outcome of the inspection by the Investigatory Powers Commissioner's Office (IPCO) in April 2020, which recommended that the Council should review and update its RIPA policy and guidance document in accordance with the 2018 Home Office statutory Codes of Practice and changes brought about by the introduction of the Investigatory Powers Act 2016.

Specific consultation and engagement with intended audiences and target groups for the service change

The primary focus of the Policy relates to formalising the Council's approach to surveillance in line with the existing prescriptive legislative regime controlling surveillance activities, including compliance with the relevant statutory codes of practice. The position set out in the Policy does not extend beyond the expectations/requirements of the legal framework. For these reasons, a generic consultation exercise with the full range of audience groups has not been carried out.

Nevertheless, consultation and advice was sought from a national expert in the RIPA field who worked with the RIPA Co-ordinator to develop an initial draft of the Policy for further consideration by the Council's RIPA Working Group and subsequently by IPCO. This took place between April and November 2021.

Engagement was undertaken with IPCO inspectors, including a specific face-to-face meeting on 27 September 2021 between one of the IPCO inspectors and the Council's RIPA Senior Responsible Officer and Co-ordinator. The IPCO inspector confirmed the policy document provided accurate and comprehensive advice.

Through the RIPA Working Group, feedback has been provided from a cross-section of Council services to inform the current draft of the Policy. Members of

the Audit Committee have been informed of progress through regular reports presented by the Head of Audit.

Where any surveillance activities are being considered, which may impact on any work of the police or any other enforcement agency, there will be ongoing operational liaison between appropriate officers in these agencies that will include consideration and implementation of the Policy requirements.

Once the Policy is agreed/approved by the Council, it will be made publicly available, through the Council's website, and accessible to the intended audiences and target groups. It will be possible for anyone to provide feedback on the Policy to the RIPA Co-ordinator, whose contact details will be included on the relevant web page, and any feedback received will be reviewed on an ongoing basis by the RIPA Working Group and used to inform future revisions of the Policy.

Initial equality impact assessment by grouping (Initial health impact assessment is included below)

Please rate the impact that you perceive the service change is likely to have on a group, through stating this in the relevant column.

Please state if it is anticipated to be neutral (no impact) and add any extra notes that you think might be helpful for readers.

| Protected Characteristic groupings and other groupings in Shropshire | High negative impact <i>Part Two ESIIA required</i> | High positive impact <i>Part One ESIIA required</i> | Medium positive or negative impact <i>Part One ESIIA required</i> | Low positive, negative, or neutral impact (please specify) <i>Part One ESIIA required</i> |
|--|--|--|--|--|
| <u>Age</u> (please include children, young people, young people leaving care, people of working age, older people. Some people may belong to more than one group e.g., a child or young person for whom there are safeguarding concerns e.g., an older person with disability) | | | | Neutral |
| <u>Disability</u> (please include mental health conditions and syndromes; hidden disabilities including autism and Crohn's disease; physical and sensory disabilities or impairments; learning disabilities; Multiple Sclerosis; cancer; and HIV) | | | | Neutral |
| <u>Gender re-assignment</u> (please include associated aspects: safety, caring responsibility, potential for bullying and harassment) | | | | Neutral |
| <u>Marriage and Civil Partnership</u> (please include associated aspects: caring responsibility, potential for bullying and harassment) | | | | Neutral |

| | | | | |
|--|--|--|--|---------|
| <u>Pregnancy and Maternity</u> (please include associated aspects: safety, caring responsibility, potential for bullying and harassment) | | | | Neutral |
| <u>Race</u> (please include ethnicity, nationality, culture, language, Gypsy, Traveller) | | | | Neutral |
| <u>Religion and belief</u> (please include Buddhism, Christianity, Hinduism, Islam, Jainism, Judaism, Nonconformists; Rastafarianism; Shinto, Sikhism, Taoism, Zoroastrianism, and any others) | | | | Neutral |
| <u>Sex</u> (this can also be viewed as relating to gender. Please include associated aspects: safety, caring responsibility, potential for bullying and harassment) | | | | Neutral |
| <u>Sexual Orientation</u> (please include associated aspects: safety; caring responsibility; potential for bullying and harassment) | | | | Neutral |
| <u>Other: Social Inclusion</u> (please include families and friends with caring responsibilities; households in poverty; people for whom there are safeguarding concerns; people you consider to be vulnerable; people with health inequalities; refugees and asylum seekers; rural communities; veterans and serving members of the armed forces and their families) | | | | Neutral |

Initial health and wellbeing impact assessment by category

Please rate the impact that you perceive the service change is likely to have with regard to health and wellbeing, through stating this in the relevant column.

Please state if it is anticipated to be neutral (no impact) and add any extra notes that you think might be helpful for readers.

| Health and wellbeing: individuals and communities in Shropshire | High negative impact <i>Part Two HIA required</i> | High positive impact | Medium positive or negative impact | Low positive negative or neutral impact (please specify) |
|--|---|-----------------------------|---|---|
| Will the proposal have a <i>direct impact</i> on an individual's health, mental | | | | Positive impact on physical health, mental health, and wellbeing from improvements in |

| | | | | |
|---|--|--|--|--|
| <p>health and wellbeing?</p> <p>For example, would it cause ill health, affecting social inclusion, independence and participation?</p> <p>.</p> | | | | <p>community and environment.</p> <p>Negative impact on mental health and wellbeing from collateral intrusion, which may arise in limited circumstances, e.g., where an 'error' is reported to IPCO and a decision is taken by the Surveillance Commissioners that the error was serious enough to warrant the individual(s), who were the subject of the collateral intrusion, being found and informed of the circumstances of the surveillance.</p> |
| <p>Will the proposal indirectly impact an individual's ability to improve their own health and wellbeing?</p> <p>For example, will it affect their ability to be physically active, choose healthy food, reduce drinking and smoking?</p> <p>.</p> | | | <p>Positive impact on community, social and economic and environmental living conditions due to effects of potential reduction in crime.</p> | <p>Negative impact on community and environment from possible disruption.</p> |
| <p>Will the policy have a direct impact on the community - social, economic and environmental living conditions that would impact health?</p> <p>For example, would it affect housing, transport, child development,</p> | | | | <p>Neutral</p> |

| | | | | |
|---|--|--|--|---------|
| education, employment opportunities, availability of green space or climate change mitigation? | | | | |
| <p>Will there be a likely change in demand for or access to health and social care services?</p> <p>For example: Primary Care, Hospital Care, Community Services, Mental Health, Local Authority services including Social Services?</p> | | | | Neutral |

Identification of likely impact of the service change in terms of other considerations including climate change and economic or societal impacts

The primary aim of central and local government enforcement is to protect the individual, the environment and a variety of groups such as businesses, consumers/the general public and workers. At the same time, carrying out enforcement functions in a fair, practical and consistent manner helps to maintain a fair and safe society and grow and promote a prosperous and thriving national and local economy.

The Policy is fundamentally based on human rights principles encapsulated in ECHR and HRA and sets out the way in which the requirements under RIPA and IPA, which are specifically aimed at protecting individuals' human rights in relation to privacy, will be undertaken. The Policy aims to ensure that the Council's actions are not at variance with the HRA and is, therefore, unlikely to result in adverse human rights implications.

The performance of certain investigatory functions to fulfil the Council's statutory duties and ensure regulatory compliance may require the Council to undertake covert techniques that involve the surveillance of individuals, the use of undercover officers and informants or obtaining communications data. Such actions may intrude on the privacy of individuals and can result in private information being obtained and, as such, should not be undertaken without full and proper consideration. The Regulation of Investigatory Powers Act 2000 (RIPA) and the Investigatory Powers Act 2016 (IPA) govern these activities and provide a means of ensuring that they are carried out in accordance with the law and subject to safeguards against abuse.

All surveillance activity can pose a risk to the Council from challenges under the European Convention on Human Rights (ECHR) and the Human Rights Act 1998 (HRA). All staff involved in the process must, therefore, take their responsibilities seriously, which will assist with the integrity of the Council's processes, procedures and oversight responsibilities.

The Policy is intended to demonstrate that covert techniques will only be used to obtain information or evidence when no other investigation method or technique will deliver the required outcomes.

All residents and businesses within Shropshire will benefit from this Policy as it provides the framework to ensure compliance with RIPA and IPA and thus ensures human rights are protected when undertaking investigatory functions; in particular, it sets out how the Council intends to limit intrusion into the personal activities of individuals. The Policy assists the Council to identify and take the appropriate investigatory action to reduce the level of crime in the community.

The Policy provides guidance on the directed surveillance and CHIS authorisation processes and the roles of the respective staff involved.

The Policy sets out the approach to be taken to ensure that all online research and investigations are conducted lawfully and ethically to reduce risk. It provides guidance to all staff within the Council, when engaged in their official capacity, of the implications and legislative framework associated with online internet and social media research. It also ensures that the activity undertaken, and any evidence obtained will stand scrutiny.

The Policy also provides guidance on surveillance which needs to be undertaken by the Council but cannot be authorised under RIPA ('non-RIPA' activity). This type of surveillance must be compliant with the ECHR/HRA.

Guidance Notes

1. Legal Context

It is a legal requirement for local authorities to assess the equality and human rights impact of changes proposed or made to services. It is up to us as an authority to decide what form our equality impact assessment may take. By way of illustration, some local authorities focus more overtly upon human rights; some include safeguarding. It is about what is considered to be needed in a local authority's area, in line with local factors such as demography and strategic objectives as well as with the national legislative imperatives.

Carrying out these impact assessments helps us as a public authority to ensure that, as far as possible, we are taking actions to meet the general equality duty placed on us by the Equality Act 2010, and to thus demonstrate that the three equality aims are integral to our decision making processes. These are: eliminating discrimination, harassment and victimisation; advancing equality of opportunity; and fostering good relations.

These screening assessments for any proposed service change go to Cabinet as part of the committee report, or occasionally direct to Full Council, unless they are ones to do with Licensing, in which case they go to Strategic Licensing Committee.

Service areas would ordinarily carry out a screening assessment, or Part One equality impact assessment. This enables energies to be focussed on review and monitoring and ongoing evidence collection about the positive or negative impacts of a service change upon groupings in the community, and for any adjustments to be considered and made accordingly.

These screening assessments are recommended to be undertaken at timely points in the development and implementation of the proposed service change.

For example, an ESHIA would be a recommended course of action before a consultation. This would draw upon the evidence available at that time, and identify the target audiences, and assess at that initial stage what the likely impact of the service change could be across the Protected Characteristic groupings and our tenth category of Social Inclusion. This ESHIA would set out intended actions to engage with the groupings, particularly those who are historically less likely to engage in public consultation eg young people, as otherwise we would not know their specific needs.

A second ESHIA would then be carried out after the consultation, to say what the feedback was, to set out changes proposed as a result of the feedback, and to say where responses were low and what the plans are to engage with groupings who did not really respond. This ESHIA would also draw more upon actions to review impacts in order to mitigate the negative and accentuate the positive. Examples of this approach include the Great Outdoors Strategy, and the Economic Growth Strategy 2017-2021

Meeting our Public Sector Equality Duty through carrying out these ESHIAs is very much about using them as an opportunity to demonstrate ongoing engagement across groupings and to thus visibly show we are taking what is called due regard of the needs of people in protected characteristic groupings

If the screening indicates that there are likely to be significant negative impacts for groupings within the community, the service area would need to carry out a full report, or Part Two assessment. This will enable more evidence to be collected that will help the service area to reach an informed opinion.

In practice, Part Two or Full Screening Assessments have only been recommended twice since 2014, as the ongoing mitigation of negative equality impacts should serve to keep them below the threshold for triggering a Full Screening Assessment. The expectation is that Full Screening Assessments in regard to Health Impacts may occasionally need to be undertaken, but this would be very much the exception rather than the rule.

2. Council Wide and Service Area Policy and Practice on Equality, Social Inclusion and Health

This involves taking an equality and social inclusion approach in planning changes to services, policies, or procedures, including those that may be required by Government.

The decisions that you make when you are planning a service change need to be recorded, to demonstrate that you have thought about the possible equality impacts on communities and to show openness and transparency in your decision-making processes.

This is where Equality, Social Inclusion and Health Impact Assessments (ESHIA) come in. Where you carry out an ESHIA in your service area, this provides an opportunity to show:

- What evidence you have drawn upon to help you to recommend a strategy or policy or a course of action to Cabinet.
- What target groups and audiences you have worked with to date.
- What actions you will take in order to mitigate any likely negative impact upon a group or groupings, and enhance any positive effects for a group or groupings; and
- What actions you are planning to review the impact of your planned service change.

The formal template is there not only to help the service area but also to act as a stand-alone for a member of the public to read. The approach helps to identify whether or not any new or significant changes to services, including policies, procedures, functions, or projects, may have an adverse impact on a particular group of people, and whether the human rights of individuals may be affected.

This assessment encompasses consideration of social inclusion. This is so that we are thinking as carefully and completely as possible about all Shropshire groups and communities, including people in rural areas and people or households that we may describe as vulnerable.

Examples could be households on low incomes or people for whom there are safeguarding concerns, as well as people in what are described as the nine 'protected characteristics' of groups of people in our population, e.g., Age. Another specific vulnerable grouping is veterans and serving members of the Armed Forces, who face particular challenges with regard to access to Health, to Education, and to Housing.

We demonstrate equal treatment to people who are in these groups and to people who are not, through having what is termed 'due regard' to their needs and views when developing and implementing policy and strategy and when commissioning, procuring, arranging, or delivering services.

When you are not carrying out an ESHIA, you still need to demonstrate and record that you have considered equality in your decision-making processes. It is up to you what format you choose.-You could use a checklist, an explanatory note, or a document setting out our expectations of standards of behaviour, for contractors to

read and sign. It may well not be something that is in the public domain like an ESHIA, but you should still be ready for it to be made available.

Both the approaches sit with a manager, and the manager has to make the call, and record the decision made on behalf of the Council. Help and guidance is also available via the Commissioning Support Team, either for data, or for policy advice from the Rurality and Equalities Specialist. Here are some examples to get you thinking.

Carry out an ESHIA:

- If you are building or reconfiguring a building.
- If you are planning to reduce or remove a service.
- If you are consulting on a policy or a strategy.
- If you are bringing in a change to a process or procedure that involves other stakeholders and the wider community as well as particular groupings

For example, there may be a planned change to a leisure facility. This gives you the chance to look at things like flexible changing room provision, which will maximise positive impacts for everyone. A specific grouping that would benefit would be people undergoing gender reassignment

Carry out an equality and social inclusion approach:

- If you are setting out how you expect a contractor to behave with regard to equality, where you are commissioning a service or product from them.
- If you are setting out the standards of behaviour that we expect from people who work with vulnerable groupings, such as taxi drivers that we license.
- If you are planning consultation and engagement activity, where we need to collect equality data in ways that will be proportionate and non-intrusive as well as meaningful for the purposes of the consultation itself.
- If you are looking at services provided by others that help the community, where we need to demonstrate a community leadership approach

For example, you may be involved in commissioning a production to tour schools or appear at a local venue, whether a community hall or somewhere like Theatre Severn. The production company should be made aware of our equality policies and our expectation that they will seek to avoid promotion of potentially negative stereotypes. Specific groupings that could be affected include: Disability, Race, Religion and Belief, and Sexual Orientation. There is positive impact to be gained from positive portrayals and use of appropriate and respectful language in regard to these groupings in particular.

3. Council wide and service area policy and practice on health and wellbeing

This is a relatively new area to record within our overall assessments of impacts, for individual and for communities, and as such we are asking service area leads to consider health and wellbeing impacts, much as they have been doing during 2020-

2021, and to look at these in the context of direct and indirect impacts for individuals and for communities. A better understanding across the Council of these impacts will also better enable the Public Health colleagues to prioritise activities to reduce health inequalities in ways that are evidence based and that link effectively with equality impact considerations and climate change mitigation.

Health in All Policies – Health Impact Assessment

Health in All Policies is an upstream approach for health and wellbeing promotion and prevention, and to reduce health inequalities. The Health Impact Assessment (HIA) is the supporting mechanism

- Health Impact Assessment (HIA) is the technical name for a common-sense idea. It is a process that considers the wider effects of local policies, strategies and initiatives and how they, in turn, may affect people's health and wellbeing.
- Health Impact Assessment is a means of assessing both the positive and negative health impacts of a policy. It is also a means of developing good evidence-based policy and strategy using a structured process to review the impact.
- A Health Impact Assessment seeks to determine how to maximise health benefits and reduce health inequalities. It identifies any unintended health consequences. These consequences may support policy and strategy or may lead to suggestions for improvements.
- An agreed framework will set out a clear pathway through which a policy or strategy can be assessed and impacts with outcomes identified. It also sets out the support mechanisms for maximising health benefits.

The embedding of a Health in All Policies approach will support Shropshire Council through evidence-based practice and a whole systems approach, in achieving our corporate and partnership strategic priorities. This will assist the Council and partners in promoting, enabling and sustaining the health and wellbeing of individuals and communities whilst reducing health inequalities.

Individuals

Will the proposal have a *direct impact* on health, mental health and wellbeing?

For example, would it cause ill health, affecting social inclusion, independence and participation?

Will the proposal directly affect an individual's ability to improve their own health and wellbeing?

This could include the following: their ability to be physically active e.g., being able to use a cycle route; to access food more easily; to change lifestyle in ways that are of positive impact for their health.

An example of this could be that you may be involved in proposals for the establishment of safer walking and cycling routes (e.g., green highways), and changes to public transport that could encourage people away from car usage. and increase the number of journeys that they make on public transport, by foot or on bicycle or scooter. This could improve lives.

Will the proposal *indirectly impact* an individual's ability to improve their own health and wellbeing?

This could include the following: their ability to access local facilities e.g., to access food more easily, or to access a means of mobility to local services and amenities? (e.g. change to bus route)

Similarly to the above, an example of this could be that you may be involved in proposals for the establishment of safer walking and cycling routes (e.g. pedestrianisation of town centres), and changes to public transport that could encourage people away from car usage, and increase the number of journeys that they make on public transport, by foot or on bicycle or scooter. This could improve their health and well being.

Communities

Will the proposal directly or indirectly affect the physical health, mental health, and wellbeing of the wider community?

A *direct impact* could include either the causing of ill health, affecting social inclusion, independence and participation, or the promotion of better health.

An example of this could be that safer walking and cycling routes could help the wider community, as more people across groupings may be encouraged to walk more, and as there will be reductions in emission leading to better air quality.

An *indirect impact* could mean that a service change could indirectly affect living and working conditions and therefore the health and well being of the wider community.

An example of this could be: an increase in the availability of warm homes would improve the quality of the housing offer in Shropshire and reduce the costs for households of having a warm home in Shropshire. Often a health promoting approach also supports our agenda to reduce the level of Carbon Dioxide emissions and to reduce the impact of climate change.

Please record whether at this stage you consider the proposed service change to have a direct or an indirect impact upon communities.

Demand

Will there be a change in demand for or access to health, local authority and social care services?

For example: Primary Care, Hospital Care, Community Services, Mental Health and Social Services?

An example of this could be: a new housing development in an area would affect demand for primary care and local authority facilities and services in that location and surrounding areas. If the housing development does not factor in consideration of availability of green space and safety within the public realm, further down the line there could be an increased demand upon health and social care services as a result of the lack of opportunities for physical recreation, and reluctance of some groupings to venture outside if they do not perceive it to be safe.

For further information on the use of ESHIAs: please contact your head of service or contact Mrs Lois Dale, Rurality and Equalities Specialist and Council policy support on equality, via telephone 01743 258528, or email lois.dale@shropshire.gov.uk.

For further guidance on public health policy considerations: please contact Amanda Cheeseman Development Officer in Public Health, via telephone 01743 253164 or email amanda.cheeseman@shropshire.gov.uk